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9

10 **UNITED STATES BANKRUPTCY COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**
12 **LOS ANGELES DIVISION**

13 In re:
14 SCOOBEEZ, et al.¹

15 Debtors and Debtors in Possession.

16 Affects:

- All Debtors
- Scoobeez, ONLY
- Scoobeez Global, Inc., ONLY
- Scoobur LLC, ONLY

21 SCOOBEEZ, INC.,

22 Plaintiff,

23 v.

24 AMAZON LOGISTICS, INC.,

25 Defendant.

Case No. 2:19-bk-14989-WB
Jointly Administered:
2:19-bk-14991-WB; 2:19-bk-14997-WB

Chapter 11

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**DECLARATION OF SHANE J. MOSES
IN SUPPORT OF DEBTORS'
SUPPLEMENTAL BRIEF (A) IN
FURTHER SUPPORT OF THE
DEBTORS' EMERGENCY MOTION
FOR PRELIMINARY INJUNCTION TO
PREVENT VIOLATION OF THE
AUTOMATIC STAY, AND (B) IN
OPPOSITION TO AMAZON LOGISTICS
INC.'S MOTION MODIFYING THE
AUTOMATIC STAY**

Hearing:

Date: February 25, 2020

Time: 10:00 a.m.

Place: Courtroom 1375
U.S. Bankruptcy Court
255 East Temple Street
Los Angeles, CA 90012

¹ The Debtors and the last four digits of their respective federal taxpayer identification numbers are as follows: Scoobeez (6339); Scoobeez Global, Inc. (9779); and Scoobur, LLC (0343). The Debtors' address is 3463 Foothill Boulevard, Glendale, California 91214.

1 I, Shane J. Moses, do hereby declare:

2 1. I am an individual over the age of eighteen. I am of counsel with the law firm of
3 Foley & Lardner LLP, counsel for Scoobeez, Scoobeez Global, Inc., and Scoobur, LLC, the
4 debtors and debtors in possession (collectively “Debtors” or “Scoobeez”) in the above-captioned
5 chapter 11 bankruptcy cases (collectively the “Chapter 11 Cases”).

6 2. Except as otherwise indicated, all statements made herein are based on my
7 personal knowledge or my review of relevant documents. If called to testify as a witness in this
8 matter, I could and would competently testify under oath to the trust of the statements below.

9 3. I make this declaration in support of the *Debtors’ Supplemental Brief (A) In*
10 *Further Support of the Debtors’ Emergency Motion for Preliminary Injunction to Prevent*
11 *Violation of the Automatic Stay, and (B) In Opposition to Amazon Logistics Inc.’s Motion*
12 *Modifying the Automatic Stay* (the “Brief”). Unless otherwise defined herein, all capitalized
13 terms shall have the same meaning as ascribed to them in the Brief.

14 4. Attached as Exhibit 1 is a true and correct copy of the Transcript of Deposition of
15 James Wilson, January 28, 2020, taken in the Chapter 11 Cases (the “Wilson Transcript”). To
16 reduce pages, Exhibit 1 includes only those portions of the Wilson Transcript cited in the Brief.

17 5. Attached as Exhibit 2 is a true and correct copy of the Transcript of Deposition of
18 Micah McCabe, January 17, 2020, taken in the Chapter 11 Cases (the “McCabe Transcript”). To
19 reduce pages, Exhibit 2 includes only those portions of the McCabe Transcript cited in the Brief.

20 6. Attached as Exhibit 3 is a true and correct copy of the Transcript of Deposition of
21 Scott Kaufman, January 22, 2020, taken in the Chapter 11 Cases (the “Kaufman Transcript”). To
22 reduce pages, Exhibit 3 includes only those portions of the Kaufman Transcript cited in the Brief.

23 7. Attached as Exhibit 4 is a true and correct copy of the Transcript of Deposition of
24 David Ojeda, February 13, 2020, taken in the Chapter 11 Cases (the “Ojeda Transcript”). To
25 reduce pages, Exhibit 4 includes only those portions of the Ojeda Transcript cited in the Brief.

26 8. Attached as Exhibit 5 is a true and correct copy of the Transcript of Deposition of
27 Vadim Kozin, January 17, 2020, taken in the Chapter 11 Cases (the “Kozin Transcript”). To
28 reduce pages, Exhibit 5 includes only those portions of the Kozin Transcript cited in the Brief.

9. Attached as Exhibit 6 is a true and correct copy of the Transcript of Deposition of George Voskanian, January 28, 2020, taken in the Chapter 11 Cases (the “Voskanian Transcript”). To reduce pages, Exhibit 6 includes only those portions of the Voskanian Transcript cited in the Brief.

10. Attached as Exhibit 7 is a true and correct copy of the Transcript of Deposition of Scott A. Sheikh, January 29, 2020, taken in the Chapter 11 Cases (the “Sheikh Transcript”). To reduce pages, Exhibit 7 includes only those portions of the Sheikh Transcript cited in the Brief.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 19th day of February, 2020 at Berkeley, California.

/s/ *Shane J. Moses*
Shane J. Moses

EXHIBIT 1

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

| | | |
|---------------------|---|------------------|
| In re: |) | |
| SCOOBEEZ, et al. |) | |
| Debtors and Debtors |) | Case Nos. |
| in Possession. |) | 2:19-bk-14991-WB |
| vs. |) | 2:19-bk-14997-WB |
| |) | |

VIDEOTAPED DEPOSITION OF JAMES WILSON
TAKEN BY A CERTIFIED COURT REPORTER
LAS VEGAS, NEVADA
TUESDAY, JANUARY 28, 2020
at 10:09 a.m.

Reported By: LISA MAKOWSKI, CCR 345, CA CSR 13400
JOB NO: 3955993
PAGES 1 - 333

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1 A. Okay. Perfect.

2 Q. -- discuss.

3 And then one thing, I have a tendency to
4 talk fast, and I'm going to do my best to talk
5 slow.

6 A. Okay.

7 Q. But, also, I ask till -- you wait until I
8 finish my question --

9 A. Okay.

10 Q. -- before you answer.

11 A. Okay.

12 Q. It becomes -- yeah, it becomes very easy
13 to be conversational. But the reality is, for the
14 record, it's much cleaner if I ask a question, you
15 answer, I ask the next question. I do a lot of
16 okays, and I know that you're doing okays, but
17 let's try -- it's very hard. It's human nature --
18 to not talk over one another.

19 Is that fair?

20 A. Okay.

21 Q. If you want to take a break, feel free to
22 take a break anytime. I just would ask that you
23 wait until a question -- that a question isn't
24 pending while -- during that break. So you answer
25 the question, and then you guys can take a break.

1 Is that fair?

2 A. Yes.

3 Q. Okay. You'll be given a written
4 transcript of this deposition for you to review,
5 and you want to go over it, make sure that it's
6 accurate. But I just want to -- to caution you
7 that if you make like a substantive change, like
8 you changed a yes answer to a no, I'll also have
9 the ability to comment on that at trial, and it may
10 affect your credibility.

11 Do you understand that?

12 A. Yes.

13 Q. Also, I want to caution you to -- to have
14 your answers be verbal not uh-huh and uh-uh because
15 the record can be ambiguous as to whether you meant
16 a yes or a no. So we'll try to make -- if you can
17 try to make your answers verbal, that would be
18 great.

19 A. Okay.

20 Q. Got that?

21 Okay. Are you taking any medication that
22 may impact your ability to give your best testimony
23 today?

24 A. No.

25 Q. So before we begin, I just want to go

1 over some terms, some commonly used terms that
2 we'll use today to make sure that we both
3 understand that they mean the same thing. And you
4 understand we're here as part of the bankruptcy
5 case of Scoobeez, which is in Chapter 11 in
6 bankruptcy court in the Central District of
7 California.

8 Do you understand that?

9 A. Yes, I understand that's why we're here.

10 Q. Okay. And you understand that Amazon is
11 seeking permission from the bankruptcy court to
12 terminate the agreement between Amazon and
13 Scoobeez?

14 MS. FITZPATRICK: Objection, calls for a
15 legal conclusion.

16 You can answer.

17 THE WITNESS: Yes I understand.

18 BY MS. NASSIRI:

19 Q. Okay. One other thing I didn't note,
20 that your counsel may object from time to time to
21 my questions, but unless she instructs you not to
22 answer, I am entitled to your best response.

23 Do you understand that?

24 A. Yes.

25 Q. Okay. If I say Hillair Capital or

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1 A. -- voluntarily exiting.

2 Q. Sure. Okay. Thank you.

3 A. Sorry. I just wanted to make sure I
4 understood what you were asking me.

5 Q. I appreciate that. Thank you.

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1 Q. Okay. And a station is a -- a delivery
2 hub or where the -- where the DSPs would pick up a
3 package and take it to the -- to the customer; is
4 that correct?

5 A. Correct.

6 Q. Okay. Is station the right way to refer
7 to it or --

8 A. Sure.

9 Q. -- better?

10 A. Yes.

11 Q. So we're talking about growth. You
12 mentioned you expect the number of packages to
13 grow.

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1 station is -- is what Amazon is -- is targeting now
2 as opposed to a larger DSP?

3 MS. FITZPATRICK: Objection, misstates
4 testimony.

5 THE WITNESS: I mean, I -- I can give --
6 I mean, I -- I think it's similar to -- to what I
7 just said. I think an owner-operator in the
8 station can -- can better manage those metrics and
9 have a -- really what I would describe as a -- a --
10 a better connection with drivers that help drive
11 those metrics.

12 BY MS. NASSIRI:

13 Q. Is the idea that a 2.0 owner-operator
14 who's on the ground at the station will only
15 operate out of one station?

16 A. For -- for new owners onboarded?

17 Q. Yes.

18 A. Yes. That is -- we're very clear on that
19 on the Logistics@amazon.com site, the expectation
20 of operating one station.

21 Q. Are there any 2.0s that operate out of
22 more than one station currently?

23 A. There are migrated 2.0s --

24 Q. Okay.

25 A. -- that operate at multiple stations.

1 Q. So tell me a little bit about that.

2 How -- if -- if you were a 1.0 -- well, strike
3 that.

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12 Q. Okay. And so -- and I assume that the
13 2.0 DSP has a -- an agreement or a actual contract
14 that looks different than a 1.0 agreement; is that
15 correct?

16 A. Yes.

17 Q. So how -- do changes have to be made to
18 the 2.0 agreement by the fact that it's a migrated
19 1.0?

20 MS. FITZPATRICK: Objection, form.

21 BY MS. NASSIRI:

22 Q. If they work out of 12 to 13 stations,
23 how -- how would they satisfy the requirements of a
24 2.0?

25 MS. FITZPATRICK: Objection, form.

1 Q. Okay. And you're saying since you've
2 been involved since January --

3 A. Since -- since January 2019.

4 Q. You have not approved any such migration.

5 A. Correct. We -- like, we have no -- no
6 DSP has actually migrated and --

7 Q. I just want to know if anyone asked and
8 said -- was said no.

9 A. Yeah. Yes. People have asked -- people
10 have asked. I -- I -- I can't recall specifically
11 which DSPs.

12 Q. Sure.

13 A. But I -- I know that -- that there have
14 been requests from -- from specific on-the-road
15 managers saying, hey, this DSP is asking about
16 migrating to 2.0. So there are a number of DSPs
17 that have asked. We haven't really developed a
18 framework yet, and so the answer is basically we're
19 not migrating right now because we don't have a
20 framework to how we want to think about it.

21 Q. Okay. Is that framework being developed?

22 A. Yes.

23 Q. And are you the person who is working on
24 that framework?

25 A. My team.

1 the -- the reason that we identified those 15 DSPs.

2 Q. Okay. And other than Scoobeez, have all
3 15 of those DSPs -- or 14 been eliminated from the
4 program?

5 A. They --

6 Q. Or terminated?

7 A. The vast majority of them have been
8 terminated. We are in process of finishing that
9 list.

10 Q. Okay. And in the initial -- your team's
11 initial schedule that was based on performance and
12 elimination of the 1.0s was the idea to just
13 ultimately eliminate all 1.0s from the system?

14 A. The idea was to eliminate the 1.0
15 contract.

16 Q. Okay.

17 A. And so we -- we made a recommendation to
18 eliminate the contract through either termination
19 or migration.

20 Q. Okay. But that framework was rejected.

21 A. Correct.

22 Q. Okay. Had that framework not been
23 rejected, there may be some that, barring they had
24 no performance issues, they might be migrating now
25 to the 2.0 system?

1 where it says that "These records are created and
2 updated at or near the time the performance metrics
3 are measured and relied upon determining the
4 identity the of DSP with whom Amazon does
5 business."

6 So this chart in paragraph 7 talks about
7 Scoobeez' performance metrics from Week 27 through
8 the present. And we -- the present would be, I
9 imagine, the date you signed this, November 11th,
10 on or about that date.

11 Do you know why Week 27 was chosen?

12 A. That's when we launched our new
13 performance scorecard.

14 Q. Oh, okay. We will talk about scorecards
15 later.

16 Okay. So can you just walk me through
17 just like, say, the first line --

18 A. Sure.

19 Q. -- what DAOU means, and what this is --
20 what -- what is this communicating, this
21 performance percentile?

22 MS. FITZPATRICK: Objection to form.

23 THE WITNESS: So DAU1 is -- is a code for
24 a station.

25 / / /

1 BY MS. NASSIRI:

2 Q. Okay.

3 A. So that's for a specific delivery station
4 or we -- you referred to it as a hub.

5 Q. Okay.

6 A. The number of DSPs, that's how many DSPs
7 at this time operated in that DAU1 station.

8 Q. Okay.

9 A. And that over the time period from
10 Week 27 to the present, Scoobeez was in the --
11 the -- the top 63 percent of performance of those
12 DSPs.

13 Q. Okay. So -- and is it 63 -- is it -- is
14 it a hundred? Is the max someone could get was a
15 hundred percent? I'm just trying to -- statistics
16 are a funny thing.

17 MS. FITZPATRICK: Objection to form,
18 misstates testimony.

19 BY MS. NASSIRI:

20 Q. I'm trying to understand what this means.

21 A. So -- so it means that yes, basically you
22 want to be -- you -- you want to be in a higher
23 percentile --

24 Q. Okay.

25 A. -- means -- which mean you performed

1 better.

2 Q. Sure.

3 A. So -- so they're in the 63rd percentile,
4 basically, of their DSPs, which means that they're
5 slightly better than average. So average would be
6 50 --

7 Q. Okay.

8 A. -- percent.

9 Q. Is -- is -- is -- okay.

10 So following week -- or -- or is this
11 just by station overall for this time period?

12 A. Correct. So the first row is only for
13 DAU1.

14 Q. And where's DAU1, if you know?

15 A. I believe that's Austin.

16 Q. Okay. And then DCH1, 17 DSPs operate out
17 of that station, and Scoobeez was the 47th
18 percentile?

19 A. So slightly below average.

20 Q. Okay. So if we go to the bottom where it
21 says average -- the bottom of the chart on page 17
22 of your declaration, average 49.58.

23 So what does this communicate to you
24 as -- in your -- in your role at Amazon of
25 Scoobeez' performance for this time period?

1 A. It communicates they're almost virtually
2 average.

3 Q. Okay.

4 A. So if -- you know, if we use 50 percent
5 as average, so the total average line is all DSPs.
6 So if we look at all stations --

7 Q. Not just these stations?

8 A. Yeah. It's the -- sorry. Sorry. It's
9 the average of the stations that they operate in in
10 all DSPs.

11 Q. Okay. And you said that these
12 percentiles come from the scorecards that were
13 introduced in or around Week 27?

14 A. The -- the percentiles are just the
15 ranking of the scores from the scorecard.

16 Q. Okay.

17 MS. FITZPATRICK: I -- I'm -- I'm sorry.
18 Can I ask a clarifying question?

19 MS. NASSIRI: Sure.

20 MS. FITZPATRICK: I'm not sure I'm
21 following.

22 Are you saying that they -- their
23 performance was 49 percent or -- or in the case of
24 this DSX1, it was -- they're were at 39 percent on
25 their metrics or they performed worse than

1 61 percent of the other ones that operated there?

2 THE WITNESS: Sorry. They performed
3 worse than 61 percent of the operators -- of other
4 people.

5 BY MS. NASSIRI:

6 Q. From -- for DSX1 --

7 A. For DSX1.

8 Q. For this time period?

9 A. For this time period.

10 Q. Based on this -- on the information from
11 the scorecards?

12 A. Correct.

13 Q. So can you explain to me, the score -- do
14 the scorecards each have a rating? Does the
15 scorecard say 87 percent for Week 25?

16 A. No.

17 Q. What does the score -- how does the
18 scorecard translate to this number that's on your
19 chart?

20 A. It -- it -- it -- the scorecard doesn't
21 translate to this. What -- what the scorecard will
22 say is you'll get a scorecard for every station
23 they operate in --

24 Q. Right.

25 A. -- every week.

1 Q. Right.

2 A. And the scorecard will say for this
3 specific week in this specific station, you
4 received a score of either, you know, fantastic
5 plus or fantastic or good --

6 Q. Okay.

7 A. -- or poor or fair; right?

8 MS. FITZPATRICK: Great.

9 THE WITNESS: Great. Sorry. Excuse me.
10 And -- and so you get that score once a
11 week per station.

12 BY MS. NASSIRI:

13 Q. Okay.

14 A. And so -- so when you aggregate those
15 scores over this time period and then you rank
16 everyone, these percentiles are the rankings of
17 Scoobeez compared to their peers in these stations.

18 Q. Okay. So is there a -- like a -- a scale
19 whereby fantastic plus is 90 percent, fantastic is
20 80 percent? How -- how do you translate the
21 scorecard rating to a percentile?

22 MS. FITZPATRICK: Objection to form.

23 THE WITNESS: There is -- there --
24 there -- there is an actual score that's not
25 presented to a DSP. And then we -- we -- we say if

1 you score between X and Y, you're considered
2 fantastic plus. If you score between, you know,
3 these two ranges -- I don't -- I don't know
4 specifically the ranges.

5 BY MS. NASSIRI:

6 Q. Sure.

7 A. But there are defined ranges.

8 Q. Okay.

9 A. And that determines your rating.

10 Q. Okay. We'll go through a scorecard so
11 you can explain --

12 A. Sure.

13 Q. -- explain to me what you know about that
14 and also the ratings, and we'll come back to this
15 because I'm still a little unclear of how to
16 translate.

17 But the -- the -- the factors that go
18 into this performance percentile -- well, first, is
19 it true that the factors that go into these
20 percentiles, performance percentiles come from the
21 scorecards, the information in the scorecards?

22 A. This table is built from the information
23 from the scorecards, but these -- but these
24 percentiles are -- it's just literally a stack
25 ranking --

1 provides more information about each one.

2 Q. Okay. I think there actually might be
3 information attached, metric definitions and
4 weights.

5 A. Yeah. Yes. I -- I'm saying incremental
6 to -- to --

7 Q. Oh.

8 A. -- this, there's also vis -- like, I
9 don't know how to -- lack of a better term, a
10 visual guide --

11 Q. Okay.

12 A. -- that -- that would explain more about
13 the metric.

14 Q. Okay. Do you know what this -- under
15 compliance score what 30 days' notice refers to?

16 A. That -- that would mean do they -- so we
17 talked about before, about a cure action.

18 Q. Yeah.

19 A. It would mean do they have an action --
20 are they actually trying to cure something.

21 Q. Okay. But that wouldn't apply to 1.0s,
22 does it?

23 A. It doesn't really apply to 1.0s.

24 Q. But there's no separate scorecard for
25 1.0s?

1 you -- you don't know exactly what changed on the
2 scorecards from prior to Week 27?

3 A. I -- I'm not -- I don't specifically know
4 why we -- changed the strategy and changed our
5 scorecard in Week 26. I wasn't intimately involved
6 with the that process.

7 Q. Okay. Do you -- do you generally know
8 what Scoobeez' scores were for the last quarter of
9 2019?

10 MS. FITZPATRICK: Objection to form.

11 THE WITNESS: I actually don't.

12 BY MS. NASSIRI:

13 Q. Okay. Are -- are the -- are Scoobeez'
14 scores a reason why Scoobeez is slotted for
15 termination from the DSP program?

16 A. No. The -- the reason why they were
17 slotted were the fact they were involved in
18 multiple litigations when we made the decision on
19 August 9th.

20 Q. Okay. So are there -- so currently in
21 the DSP system, are there DSPs with rankings below
22 an average of 49.58 that are still operating in the
23 system?

24 MS. FITZPATRICK: Objection, form.

25 THE WITNESS: Just to clarify, you're --

1 of -- of a DSP you are not working with multiple
2 litigations.

3 Q. Okay.

4 A. That would be one example.

5 Q. Okay.

6 A. Another example of an opportunity costs
7 would be, you know, we from a capacity, planned
8 to -- to -- you know, to not have them in our
9 network. And so we planned and recruited to have
10 other DSPs in the stations, that because Scoobeez
11 is still there, we're hindering their ability to
12 grow and scale their businesses. So that could be
13 another opportunity cost.

14 Q. But -- but Amazon -- or, sorry, Scoobeez
15 is still in those stations --

16 MS. FITZPATRICK: Not sure --

17 BY MS. NASSIRI:

18 Q. -- driving those routes that you had
19 slotted other DSPs to jump in and take over?

20 A. That could potentially have been done.

21 Q. Okay.

22 A. That -- that would be another potential
23 example.

24 MS. FITZPATRICK: I'm not sure if he
25 finished his answer about --

1 Q. At that station. Okay. Very helpful.

2 And this is -- this form is how we
3 received the document, and it starts in Week 26,
4 and I can represent to you it goes through Week 49.
5 And -- is that right? Yeah. And that would be
6 Week 26 through Week 49 of 2019; is that correct?

7 A. Correct.

8 Q. And does it start at Week 26 because
9 that's when the scorecard metrics were changed --

10 A. Yes.

11 Q. -- or do you know?

12 A. Yes. That's when we released the new
13 scorecards.

14 Q. Okay. So this is the most recent metrics
15 other than January -- the last three weeks of 2019
16 for Scoobeez' performance?

17 A. Correct.

18 MS. NASSIRI: Okay. So can we sort by
19 Column E.

20 BY MS. NASSIRI:

21 Q. Okay. So I wanted to sort by Column E so
22 we can see total poors, fairs, overall from that
23 time period.

24 A. This -- this looks like it's sorted of by
25 Column F, just to --

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1 Logistics, Inc.?

2 MS. FITZPATRICK: Are you asking for a
3 legal conclusion?

4 MS. NASSIRI: No. Just if he knows.

5 THE WITNESS: I do not.

6 BY MS. NASSIRI:

7 Q. Okay. So in -- in terms of the
8 litigation, and we can go through the underlying
9 pleadings, but if I represent to you that the Addal
10 file -- the Addal action was filed in September of
11 2018, the Key action was filed in October of '17,
12 and the Hamilton action was in 7 of '17, I have all
13 the dockets if you -- do you have any reason to
14 believe those dates are not correct, that they were
15 all pending prior to the bankruptcy?

16 A. Do -- do I have any reason?

17 Q. Yeah, to believe that they were not.

18 A. I -- I don't have any reason to -- to
19 believe that you're not telling me the truth right
20 now.

21 Q. Okay. Okay. So if, let's say, the Key
22 action was filed in October of 2017, do you know
23 why it wouldn't become an issue for Amazon that
24 would lead it to put it on -- to put Scoobeez on a
25 termination list until June or August of 2019, two

1 doesn't want a DSP that has multiple litigations
2 relating to employment or wage an hour in the
3 system and why -- why Amazon made that decision.
4 And we talked about the lost opportunity costs from
5 keeping a DSP in the system that is on the
6 termination list.

7 Do you recall that testimony?

8 A. Yes.

9 Q. Okay. Other than those two areas that we
10 talked about, the lost opportunity costs and the
11 reasons related specifically to the litigations,
12 what other harm is there currently that Amazon is
13 suffering because Scoobeez remains a DSP in the
14 system?

15 A. Off the top of my head, I can't think of
16 any more. Both of those are pretty big reasons.
17 But off the top of my head, I can't think of any
18 additional.

19 Q. Okay.

20 MS. NASSIRI: Okay. Mr. Moses, do you
21 have any questions?

22 MR. MOSES: No questions. Thank you.

23 MS. FITZPATRICK: None for me.

24 MS. NASSIRI: Okay. Thank you,
25 Mr. Wilson.

1 We have it down on the record, the
2 transcript stuff, but if we can get the rough as
3 soon as possible.

4 And how long do you need for a final?

5 THE COURT REPORTER: Twelve days.

6 MS. NASSIRI: Twelve business days?

7 THE COURT REPORTER: Ten to 12 business
8 days.

9 MS. NASSIRI: Could we get it by Friday,
10 the 7th? Does that work for you?

11 MS. FITZPATRICK: We'd like a rough as
12 well.

13 THE VIDEOGRAPHER: Would you like a
14 video?

15 MS. FITZPATRICK: Sure.

16 THE VIDEOGRAPHER: You want it synced
17 with the depo?

18 MS. FITZPATRICK: Sure.

19 THE VIDEOGRAPHER: Okay. Okay. All
20 done?

21 MS. NASSIRI: Yep.

22 THE VIDEOGRAPHER: Okay. We are off the
23 record. The time is 5:38 p.m. This concludes
24 today's testimony given by James Wilson. The total
25 number of media units used was five and will be

1 retained by Veritext Legal Solutions.

2 THE COURT REPORTER: You want a copy?

3 MS. FITZPATRICK: Yes.

4 (Thereupon, the taking of the deposition
5 was concluded at 5:39 p.m.)

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7 DECLARATION OF DEPONENT

8 I, JAMES WILSON, deponent herein, do hereby
9 declare the within and foregoing transcription to be
10 my deposition in said action under penalty of
11 perjury; that I have read, corrected and do hereby
12 affix my signature to said deposition this ____ day of
13 _____, 2020.

14
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16 _____
17 JAMES WILSON

18 Deponent
19
20
21
22
23
24
25

1

REPORTER'S DECLARATION

2

STATE OF NEVADA)

2

COUNTY OF CLARK)

3

I, Lisa Makowski, CCR No. 345, declare as follows:

4

That I reported the taking of the deposition of the witness, JAMES WILSON, commencing on Tuesday, January 28, 2020, at the hour of 10:09 a.m.

7

That prior to being examined, the witness was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth; that, before the proceedings' completion, the reading and signing of the deposition has been requested by the deponent or a party.

13

That I thereafter transcribed said shorthand notes into typewriting and that the typewritten transcript of said deposition is a complete, true and accurate transcription of said shorthand notes taken down at said time.

18

I further declare that I am not a relative or employee of any party involved in said action, nor a person financially interested in the action.

21

Dated at Las Vegas, Nevada this 7th day of February, 2020.

23



24

Lisa Makowski, CCR 345

25

Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

Veritext Legal Solutions complies with all federal and State regulations with respect to the provision of court reporting services, and maintains its neutrality and independence regardless of relationship or the financial outcome of any litigation. Veritext requires adherence to the foregoing professional and ethical standards from all of its subcontractors in their independent contractor agreements.

Inquiries about Veritext Legal Solutions' confidentiality and security policies and practices should be directed to Veritext's Client Services Associates indicated on the cover of this document or at www.veritext.com.

EXHIBIT 2

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

| | | |
|------------------------|---|-------------------|
| In re: |) | Case No. |
| |) | 2:19-bk-14989-WB |
| SCOOBEEZ, et al |) | Jointly |
| Debtors and Debtors in |) | Administered: |
| Possession. |) | 2:19-bk-14991-WB; |
| |) | 2:19-bk-14997-WB |

30(B)(6) DEPOSITION OF AMAZON

MICAH McCABE

10:00 A.M.

JANUARY 17, 2020

PERKINS COIE, LLP

1201 THIRD AVENUE

SUITE 4900

SUITE 4900

SEATTLE, WASHINGTON

REPORTED BY:

JUDY BONICELLI, CSR, RPR, CCR 2322

JOB NO. 3855212

PAGES 1 - 204

1 A P P E A R A N C E S
2

3 FOR THE DEBTOR SCOOBEEZ:

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9 bnelson@foley.com

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11 Hillair Capital Management, LLC:

12 CRYSTAL NIX-HINES
13 QUINN EMANUEL URQUHART & SULLIVAN, LLP
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I N D E X

WITNESS: MICAH McCABE

EXAMINATION:

MS. NIX-HINES:

| | EXHIBIT | EXHIBIT DESCRIPTION | PAGE |
|----|-----------|--|------|
| 7 | Exhibit 1 | Hillair Capital Management, LLC's Amended Notice of Deposition of Micah McCabe | 9 |
| 8 | Exhibit 2 | Hillair Capital Management LLC's Notice of 30(b)(6) Deposition of Amazon Logistics, Inc. | 9 |
| 9 | Exhibit 3 | An email from Stephanie Petrusha to George Trejo dated March 17, 2019 | 61 |
| 10 | Exhibit 4 | Email thread from Trejo to Petrusha re ADP deadlines E000359-361 | 87 |
| 11 | Exhibit 5 | June 11, 2019 email regarding List of Escalations WBR 06-11-2019 V2 | 90 |
| 12 | Exhibit 6 | Email stream Petrusha to McCabe 6-18-19 re Weekly compliance and Audit Review E000364 to 370 | 95 |
| 13 | Exhibit 7 | Email string from Carlin to McCabe re Station Impact of Exits, dated 6-26-19, E000069 to E000070 | 122 |
| 14 | Exhibit 8 | Email string from Fahey to Wilson and McCabe re AMXL exit data, dated 6-26-19 E000071 to E000072 | 130 |
| 15 | Exhibit 9 | July 8, 2019, email from Zach Harvey to Micah McCabe, Bates No. E000076 | 135 |

1 EXHIBITS (Continued)
2

| | | | |
|----|------------|---------------------------------------|-----|
| 3 | Exhibit 10 | Email string from Petrusha to McCabe | 143 |
| 4 | | re Weekly Compliance and Audit | |
| 5 | | Review, dated 7-10-19, E000373 to 379 | |
| 6 | Exhibit 11 | Email from Nehal Desai to McCabe re | 145 |
| 7 | | Audit Compliance History, dated | |
| 8 | | 7-18-19 | |
| 9 | Exhibit 12 | Email string from Norman to McCabe | 154 |
| 10 | | regarding Scoobeez ADP-API Proposal & | |
| | | SOW, Bates No. E000077 | |
| 11 | Exhibit 13 | Email string from Norman to McCabe re | 156 |
| 12 | | Scoobeez/ADP-API Proposal & SOW dated | |
| 13 | | 8-22-19 E000514 to 515 | |
| 14 | Exhibit 14 | Email string from McCabe to | 159 |
| 15 | | Haraldsdottir "Re: DSP Exits, dated | |
| | | 9-13-19, Bates No. E000131 | |
| 16 | Exhibit 15 | Email from Swanson to McCabe and | 170 |
| 17 | | others, Bates No. E000516 | |
| 18 | Exhibit 16 | Email string from Wilson to Swanson | 184 |
| 19 | | Re: Need two FAQs, dated 9-30-19 | |
| 20 | | E000702 to E000707 | |
| 21 | Exhibit 17 | Email string from Person to Wilson | 185 |
| 22 | | Re: Need two FAQs, dated 9-30-19 | |
| 23 | | E000708 to E000713 | |
| 24 | Exhibit 18 | Email string dated July 8, 2019, | 187 |
| 25 | | Bates No. H002451 to H002469 | |

1 SEATTLE, WASHINGTON; JANUARY 17, 2020

2 10:00 A.M.

3 --oOo--

4

5 MICAH McCABE,

6 sworn as a witness by the Certified Court Reporter,
7 testified as follows:

8 EXAMINATION

9 BY MS. NIX-HINES:

10 Q. Good morning.

11 A. Good morning.

12 Q. I'm Crystal Nix-Hines from Quinn Emanuel, and
13 with me is Frank Dylewski from Quinn Emanuel. Just
14 wanted to begin by going over the ground rules.

15 Have you ever been deposed before?

16 A. No, I have not.

17 Q. If you don't understand anything that I say,
18 tell me, and I will explain further. Will you do that?

19 A. Yes.

20 Q. You've just taken an oath to tell the truth
21 and the whole truth to each question I ask. It's the
22 same oath you would be given if you were testifying in
23 court. Do you understand that?

24 A. I do.

25 Q. The law expects that witnesses who are

1 was a senior product manager when I moved there.

2 Q. And what years were you in that position?

3 A. I moved there in 2016. I took that role, and
4 then I was there through 2018.

5 Q. When did you -- what was your next job after
6 that?

7 A. After that, I was a senior product manager for
8 what we call brand gap. It's part of the recruitment
9 and development division.

10 Q. And what were the years that you were in that
11 position?

12 A. I was in that role for about 2018 through
13 2000 -- beginning of 2019.

14 Q. And in either this role or the previous one,
15 did you deal with DSPs at all?

16 A. No, I did not.

17 Q. What was your next job after that?

18 A. That's when I joined the delivery service
19 partner, DSP program in April of 2019.

20 Q. What is your title?

21 A. I'm a senior program manager of network
22 health.

23 Q. And what are your specific responsibilities in
24 this job?

25 A. I own the exit process.

1 Q. And what does that mean?

2 A. When it's been decided that a DSP will exit
3 the network, I work with the DSP and the partner teams
4 to help on the transition.

5 Q. Do you deal with any DSP issues prior to the
6 decision that they will be marked for termination?

7 A. I am part of the process of gathering the
8 information prior to the determination.

9 Q. And when you say "you own the process," does
10 that mean you're the supervisor of the whole process?

11 A. I report into a manager who I believe has
12 ultimate oversight, but I am the point person or the
13 program manager that all of our partner teams would --

14 Q. And who do you report to?

15 A. Jimmy Wilson.

16 Q. Are there any other categories of DSPs that
17 fall within the scope of your responsibilities other
18 than the ones that are marked for termination or are
19 being considered for termination?

20 A. Yes. There is a -- we own a process where if
21 the DSP is in breach of a contract, my team owns
22 sending the notification.

23 Q. So just to clarify, you have no involvement in
24 the selection of companies to become DSPs at Amazon?

25 A. That is correct, I do not.

1 Q. No involvement in the routes DSPs are given?

2 A. That is correct, I do not.

3 Q. No involvement in the policies DSPs are
4 expected to follow, such as use of vehicles or
5 timekeeping cards or other business functions?

6 A. That is correct, I do not.

7 Q. So your sole role, broadly speaking, is to
8 address DSPs who may be considered for termination and
9 then to implement the process of termination?

10 MR. DIAMANTATOS: Object to form.

11 THE WITNESS: Yes. I wouldn't say it's
12 my sole, but yes, that is the process of -- the main
13 process of what I can cover.

14 BY MS. NIX-HINES:

15 Q. Other than the functions that you've already
16 told us about, are there any other responsibilities
17 that you have that you have not yet mentioned?

18 A. Yes. My team also are -- it's coming through
19 me, but handles ownership transfer. If a DSP decides
20 that they want to sell their business, that would
21 eventually flow through to my team.

22 Q. And what would you do in that capacity of
23 ownership transfer?

24 A. If a request comes for ownership transfer,
25 part of the process is to vet the new owner.

1 Going back to your earlier question, I don't
2 own the onboarding or vetting process, but it's the
3 connection of teams to make sure they get passed along
4 to that team to have them vet the candidate.

5 Q. Did Scoobeez come to your attention in that
6 regard?

7 A. No, they did not.

8 Q. And you mentioned that you gathered
9 information on terminating DSPs. What kind of
10 information do you gather?

11 A. We'll look at compliance history. We'll
12 gather information regarding number of drivers they
13 have, vehicles they may have leased through the
14 program, what stations they're in, are a few examples.

15 Q. Are all those factors relevant to your
16 decision as to whether to terminate DSPs?

17 MR. DIAMANTATOS: Objection to form.
18 Go ahead.

19 THE WITNESS: No. The facts are
20 that those data points are not how many drivers they
21 have or how many vans they have are not in
22 consideration for why they would exit. Information
23 like compliance history, if there is a -- if they have
24 not been compliant with the program policy, part of the
25 program agreement, that may have had influence on the

1 decision.

2 BY MS. NIX-HINES:

3 Q. What kind of factors go into whether they've
4 complied or not? Complied with what, specifically?

5 A. So I'll step back and first say, I'm not on
6 the compliance team. So there is a team that looks at
7 the compliance -- the DSPs' compliance with our program
8 policies and program agreements. And so it's their, I
9 guess you could say, charter to identify where DSPs are
10 not following. They will -- they would loop my team in
11 for an escalation for DSPs who are not -- that they
12 have identified as not being compliant.

13 Q. And who runs that compliance team?

14 A. Carey Richardson was the director.

15 Q. You say "was." Is she still?

16 A. Yes, thank you. She's retiring, and Dina --
17 and I don't remember Dina's last name -- is taking
18 over.

19 Q. Dina hasn't started yet?

20 A. They're in a transition.

21 Q. Do you have an understanding of what this
22 dispute is about?

23 A. I would say a basic understanding.

24 Q. What is your understanding?

25 A. That Scoobeez believes that we are terminating

1 A. Yes, it can be.

2 Q. And is that something you did personally?

3 A. I did deliver the news to Scoobeez, yes.

4 Q. And how was that information communicated?

5 A. It was a phone call.

6 Q. Do you recall when that phone call occurred?

7 A. It was -- I believe it's October 1st, a

8 Monday, and it was at 3:00 p.m., my time, I believe.

9 Q. October 1st, 2019?

10 A. Yes.

11 Q. And do you recall with whom you spoke?

12 A. I do not recall the exact names of the people
13 on the phone.

14 Q. Do you recall what you communicated
15 specifically to Scoobeez?

16 A. I do recall the conversation.

17 Q. What did you tell them?

18 A. I told them that we were -- that Amazon had --
19 was terminating the business relationship. I provided
20 the two reasons which I had stated earlier as far as
21 indemnification of Amazon through the litigation, and
22 then the second reason being the business model was not
23 consistent with the DSP program, a 2.0 program.

24 I communicated that -- the separation
25 agreement that we were proposing, the amount of money

1 lawsuits that we had identified as part of the analysis
2 or were provided to me.

3 Q. And that that was one of the two reasons that
4 you gave to Scoobeez as part of why they were being
5 marked for termination?

6 MR. DIAMANTATOS: Objection.

7 Mischaracterizes his testimony.

8 THE WITNESS: The point of the
9 litigation were identified as a reason for leading back
10 to that -- that reason.

11 BY MS. NIX-HINES:

12 Q. For termination?

13 A. Yes, to terminate the relationship.

14 Q. And was it the mere number of lawsuits that
15 led to that determination?

16 A. Yes. The analysis was to look at the number
17 of litigation cases that DSP had.

18 Q. Was any analysis done as to whether those
19 lawsuits had merit?

20 A. No. The analysis was to look at the number of
21 litigation cases the DSP had.

22 Q. Was any determination made as to the outcome
23 of those lawsuits?

24 A. No. The analysis was just to look at the
25 number of litigation cases against the DSP.

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2 Q. Going back to Scoobeez for a moment, you
3 testified earlier that you, in fact, notified the owner
4 of Scoobeez in October of 2019 that they were -- had
5 been -- that they were going to be terminated; is that
6 correct?

7 A. That is correct.

8 Q. But as we sit here now, Scoobeez is still
9 working for Amazon as a delivery service provider; is
10 that right?

11 A. That is correct. They continue to run routes
12 today.

13 Q. Have you -- with respect to Scoobeez
14 specifically, have you seen any consequences to Amazon,
15 any harms caused by the fact that Scoobeez is still a
16 DSP?

17 A. I would say I have not monitored their metrics
18 or their performance to see how they are performing.
19 When it comes to harm from the continued relationship,
20 I would point to the time and money being invested into
21 this process as a result of the ongoing litigation in
22 the bankruptcy and the filings. The other thing I
23 would highlight is the hindrance just to business
24 planning of an unknown, the timeline.

25 Q. What kind of hindrance?

MR. DIAMANTATOS: Objection. Asked and answered.

THE WITNESS: When we're planning capacity, when we're planning, let's say, the backfilling right now. When we're looking to exit a DSP, you know that we don't have -- there is still a big question mark around the timing of when everything is going to be -- when things are going to happen now, which is continuing to drag out.

BY MS. NIX-HINES:

Q. And what would additional certainty about a date certain, how would that impact the company?

MR. DIAMANTATOS: Objection.

Foundation.

THE WITNESS: The lack of there being vagueness around the timeline allows DSPs, the business, to plan for, let's say, peak, for example. As we're ramping a station, the capacity team needs to be aware of who is going to be in the station, who are going to be good business partners. So I would imagine, although I'm not part of the capacity process, having certainty around whether a DSP is going to be continuing to operate the route through the peak cycle is an important part of their decision-making process.

1 BY MS. NIX-HINES:

2 Q. And those issues are true for all DSPs that
3 are marked for termination, correct?

4 A. I would say those issues are true for all
5 where we have communicated -- where we've communicated
6 to the owner but are unable to move forward post that
7 notification.

8 Q. So that concern would apply not only to
9 Scoobeez but to other DSPs in that category?

10 A. I would say yes, with a caveat that the
11 negotiation period for exits does not usually drag on
12 this long.

13 Q. Well, you had stated earlier that sometimes
14 there is a delay as long as six months between
15 notification and exit; is that correct?

16 A. Yes, I have seen that before.

17 Q. And Scoobeez was notified on October 29, and
18 it's only the middle of January. So that's only three
19 months, right?

20 A. Yes, but with an exit there is still, I'm
21 assuming, one would apply. So there is an additional
22 60 days already on top of this. So we would be
23 approaching the six-month period.

24 Q. What additional 60 days?

25 A. The WARN Act. I'm assuming that Scoobeez

1 was -- with the exit that Scoobeez will probably
2 terminate some of their drivers. Under federal law and
3 some state laws they may have to file necessary
4 paperwork.

5 Q. And the consequences that you mentioned of the
6 uncertainty and all that, if Amazon had agreed not to
7 terminate Scoobeez, those concerns would go away; is
8 that correct?

9 A. No, I disagree. We would still be in partner
10 with a DSP that has a history of litigation.

11 Litigation, when Amazon is brought into it, costs
12 money. It costs time for attention for employees to
13 address it, and then there is also a PR risk associated
14 with the litigation related to DSPs.

15 Q. What PR risk is that?

16 A. I would point to a Buzz Feed article that came
17 out several months ago associated with DSPs that have
18 poor DA practice -- pay practices, and there was
19 accidents that were resulting from their -- those
20 drivers. Those are DSPs that we may or may not choose
21 to be in relationship with because of how they're --
22 because of their litigation history.

23 Q. Is Scoobeez mentioned in that Buzz Feed
24 article?

25 A. I don't recall specifically who was mentioned.

1 MS. NIX-HINES: Let me turn to my
2 colleague, see if you have any additional questions
3 you'd like to ask.

4 All right, thank you for your time.

5 THE WITNESS: Thank you.

6 (Signature waived.)

7 (Deposition concluded at 4:44 p.m.)

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1 REPORTER'S CERTIFICATE
2

3 I, JUDY BONICELLI, the undersigned Certified
4 Court Reporter, pursuant to RCW 5.28.010 authorized to
5 administer oaths and affirmations in and for the State
6 of Washington, do hereby certify:

7 That the sworn testimony and/or proceedings, a
8 transcript of which is attached, was given before me at
9 the time and place stated therein; that any and/or all
10 witness(es) were duly sworn to testify to the truth;
11 that the sworn testimony and/or proceedings were by me
12 stenographically recorded and transcribed under my
13 supervision, to the best of my ability; that the
14 foregoing transcript contains a full, true, and
15 accurate record of all the sworn testimony and/or
16 proceedings given and occurring at the time and place
17 stated in the transcript; that I am in no way related
18 to any party to the matter, nor to any counsel, nor do
19 I have any financial interest in the event of the
20 cause.

21 WITNESS MY HAND and DIGITAL SIGNATURE this
22 29th day of January, 2020.

23 

24 JUDY BONICELLI, RPR, CCR

25 Washington Certified Court Reporter, CCR 2322

Federal Rules of Civil Procedure

Rule 30

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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EXHIBIT 3

Page 1

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re:

SCOOBEEZ, et al.,
Debtors and Debtors
in Possession.

No. 2:19-bk-14989-WB
Jointly Administered:
2:19-bk-14991-WB, and
2:19-bk-14997-WB

Affects:

All Debtors

VIDEOTAPED DEPOSITION OF SCOTT KAUFMAN
30 (B) (6) WITNESS

Stenographically Reported by
ANGELA SINCLAIR, CCRR, CRR, RPR, CSR No. 13902
January 22, 2020

Magna Legal Services
866-624-6221
www.MagnaLS.com

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1 DEPOSITION OF SCOTT KAUFMAN
2

3 BE IT REMEMBERED, that pursuant to Notice, and
4 on the 22nd day of January 2020, commencing at the hour
5 of 9:00 a.m., in the offices of Morgan Lewis & Bockius,
6 Spear Street Tower, One Market Street, Suite 2800, San
7 Francisco, California, before me, ANGELA SINCLAIR, a
8 Certified Shorthand Reporter, personally appeared
9 SCOTT KAUFMAN, produced as a witness in said action, and
10 being by me first duly sworn, was thereupon examined as
11 a witness in said cause.

12

13 -----oo---

14

15 APPEARANCES:

16 For the Plaintiff SCOOBEZ, INC.:

17 SHANE MOSES

18 FOLEY & LARDNER LLP

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San Francisco, California 94104

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smoses@foley.com

21

For the Creditor HILLAIR CAPITAL MANAGEMENT, LLC:

22

CRYSTAL NIX-HINES and

23 JENNIFER NASSIRI

QUINN EMANUEL

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25 (213) 443-3332

crystalnixhines@quinnemanuel.com

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Page 5

1 For AMAZON LOGISTICS, INC.:
2 A. KLAIR FITZPATRICK
3 MORGAN, LEWIS & BOCKIUS, LLP
4 1701 Market Street
5 Philadelphia, Pennsylvania 19103
6 (215) 963-4935
7 klair.fitzpatrick@morganlewis.com

8
9 Also Present:
10
11 Austin Duncan, Videographer
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Page 6

1 THE VIDEOGRAPHER: We are now on record. This
2 begins Videotape Number 1 in the deposition of
3 Scott Kaufman in the matter of In Re Scoobeez, et al.,
4 debtor. Today's date is January 22nd, 2020, and the
5 time is approximately 9:01 a.m. This deposition is
6 being taken at One Market Street, San Francisco,
7 California 94105 at the request of Morgan, Lewis &
8 Bockius, LLP.

9 The videographer is Austin Duncan of Magna
10 Legal Services; the court reporter is Angela Sinclair of
11 Magna Legal Services.

12 Would counsel and all parties present please
13 state their appearances and whom they represent.

14 MS. FITZPATRICK: Sure. Klair Fitzpatrick on
15 behalf of Amazon.

16 MS. NIX-HINES: Crystal Nix-Hines from
17 Quinn Emanuel on behalf of Hillair.

18 MS. NASSIRI: Jennifer Nassiri, Quinn Emanuel,
19 on behalf of Hillair.

20 MR. MOSES: Shane Moses, Foley & Lardner, on
21 behalf of Scoobeez.

22 THE VIDEOGRAPHER: And would the court reporter
23 swear in the witness.

24 (Oath administered by the reporter.)

25 THE WITNESS: I do.

1 SCOTT KAUFMAN,
2 affirmed as a witness,
3 testified as follows:

4 EXAMINATION BY MS. FITZPATRICK:

5 Q. Great. Thank you, Mr. Kaufman, for being here
6 today. We met briefly off the record. As I mentioned,
7 my name is Klair Fitzpatrick. I'm here representing
8 Amazon, and I appreciate your time today.

9 So have you ever been deposed before?

10 A. I have.

11 Q. Okay. So I know you're familiar with it then,
12 but I'm still going to go through some preliminary
13 introductions just as a reminder.

14 The court reporter will be transcribing the
15 deposition and can only record one person at a time. So
16 to make things easier, it's best if we don't interrupt
17 you and you let me finish a question before you respond.

18 Does that make sense?

19 A. It does.

20 Q. Okay. You have to respond verbally rather than
21 head nods or gestures because the court reporter cannot
22 record those things, so please respond with a yes or no
23 or whatever the answer calls for.

24 A. Okay.

25 Q. If you don't understand a question or you don't

Page 237

1 A. Yeah. I think it's accurate, correct.

2 Q. Okay. And do you know if this deal that's
3 summarized here came to fruition?

4 A. To my recollection, this was never consummated.

5 Q. Okay.

6 A. It was never signed.

7 Q. Why not?

8 A. I don't think Shahan ever signed it.

9 Q. Did they make the payments, though?

10 A. They did make the payments.

11 Q. In April of 2018 did you suggest that Hillair
12 prepare a default notice?

13 MS. NIX-HINES: Objection as to form.

14 THE WITNESS: I did.

15 BY MS. FITZPATRICK:

16 Q. Why?

17 A. Well, I think that with the deal terms not
18 being lived up to, that we should have dropped a default
19 notice in. But seemingly Shahan -- so that's why.

20 Q. Okay. And did you do that in 2018?

21 A. I don't recall if it was ever drafted or not.

22 Q. Did you file a default notice?

23 A. We did not.

24 Q. Why not?

25 A. The company started making these payments --

Page 300

1 functioning at a very high level, that the last thing
2 that we wanted to do was disrupt this apple cart. We
3 feel that the company needed some parental guidance over
4 George and Scott at this point, but the last thing we
5 wanted to -- and that's what we represented to Amazon
6 is, is that we feel it's functioning very well which is
7 indicative of the only metric that we had, were the
8 report cards coming back from Amazon which were in an
9 upward trend historically.

10 So --

11 Q. In 2019?

12 A. In 2019; right? Since the company went into
13 bankruptcy. For lack of better words, the
14 transgressions of the past have been stopped that we
15 didn't know about. Now that we've known about them,
16 they've been fixed; they've been stopped. The company
17 has tremendous reporting standards to the government, to
18 the bankruptcy courts. And it's performed very well for
19 Amazon.

20 We actually -- personally I have gone and I've
21 shaken the hands of a significant amount of the drivers
22 and met the dispatchers and have watched the comradery
23 amongst these thousand, roughly 800,000 employees grow
24 and the pride for the company.

25 And so our comment to Amazon is we don't really

Page 352

1 that's how I led the conversation which was maybe a two-
2 or three-minute introduction. And then the people at
3 Amazon said, look, we're not interested in having that
4 conversation. We're just letting you know that it's
5 being terminated. They were not interested in hearing
6 or trying to work with us to find -- they just wanted to
7 let us know that it didn't matter what we said. Nothing
8 we could say would change their mind.

9 Q. Got it.

10 A. Which was -- so that's why the call was so
11 short.

12 Q. Got it.

13 A. And they said that. They told us that they
14 were going to -- they said they were going to take all
15 of your employees and put them into a different company
16 and for that we pay you a million dollars.

17 Q. They said they were going to take your
18 employees?

19 A. Yeah. They said --

20 Q. How did they say they were going to take the
21 employees?

22 A. They said they are going -- I think they -- I
23 forget the exact word they use.

24 Q. Did they offer to have a job fair?

25 A. No, no, no. They just said they were going to

Page 376

1 THE REPORTER: And Counsel, Mr. Moses?

2 MR. MOSES: Yes.

3 THE REPORTER: Okay.

4 THE VIDEOGRAPHER: It is approximately
5 5:40 p.m. We are off the record.

6 (The deposition concluded at 5:40 p.m.)

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1 DECLARATION UNDER PENALTY OF PERJURY

2

3 I, SCOTT KAUFMAN, do hereby certify under
4 penalty of perjury that I have read the foregoing
5 transcript of my deposition taken on January 22, 2020;
6 that I have made such corrections, if any, as appear
7 noted on the Deposition Errata Page signed by me; that
8 my testimony as contained herein, or as corrected, is
9 true and correct.

10

11 Dated this _____ day of _____,
12 2020, at _____,
13 California.

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DEPOSITION ERRATA SHEET

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3 Page No. _____ Line No. _____

4 Change: _____

5 Reason for change: _____

6 Page No. _____ Line No. _____

7 Change: _____

8 Reason for change: _____

9 Page No. _____ Line No. _____

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21 Page No. _____ Line No. _____

22 Change: _____

23 Reason for change: _____

24 _____

25 SCOTT KAUFMAN Dated

1

REPORTER'S CERTIFICATE

2

3

I, ANGELA SINCLAIR, a Stenographic Certified Shorthand Reporter, holding a valid and current license issued by the State of California, duly authorized to administer oaths, do hereby certify:

4

That SCOTT KAUFMAN, in the foregoing deposition named, was present and by me sworn as a witness in the above-entitled action at the time and place therein specified.

5

That said deposition was taken before me at said time and place, and was taken down in shorthand by me and was thereafter transcribed into typewriting, and that the foregoing transcript constitutes a full, true and correct report of said deposition and of the proceedings that took place.

6

The dismantling, unsealing, or unbinding of the original transcript will render the Reporter's Certificate null and void.

7

Should the signature of the witness not be affixed to the deposition, the witness shall not have availed himself/herself of the opportunity to sign or the signature has been waived.

8

I further certify that I am neither counsel for nor related to any party in the foregoing deposition and caption named nor in any way interested in the outcome thereof.

9

That before completion of the proceedings, review of the transcript was requested pursuant to Federal Rule 30(e).

10

IN WITNESS WHEREOF, I have hereunder subscribed my hand this 31st day of January 2020.

11

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ANGELA SINCLAIR, CCRR, CRR, RPR,
CSR 13902
State of California

EXHIBIT 4

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

IN RE:

10

10

SCOOBEEZ, ET AL

§ CASE NO. 2:19-BK-14989-WB

DEBTORS AND

10

DEBTORS IN POSSESSION

JOINTLY ADMINISTERED:

2:19-BK-14991-WB

8 2:19-BK-14997-WB

8 2:19-BK-14997-WB

8 2:19-BK-14997-WB

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ORAL AND VIDEOTAPED DEPOSITION OF

DAVID OJEDA

FEBRUARY 13, 2020

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ORAL AND VIDEOTAPED DEPOSITION OF DAVID OJEDA,
produced as a witness at the instance of the Secured
Creditor and duly sworn, was taken in the above
styled and numbered cause on Thursday, February 13,
2020, from 9:09 a.m. to 1:02 p.m., before TAMARA
CHAPMAN, CSR, CRR, RPR in and for the State of
Texas, reported by computerized stenotype machine,
at the offices of Bracewell, LLP, 111 Congress
Avenue, Austin, Texas, pursuant to the Federal Rules
of Civil Procedure and any provisions stated on the
record herein.

21

22

23

24

Job No. 3980828

1 A P P E A R A N C E S
2

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16 tinos.diamantatos@morganlewis.com
17 -and-
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23 brett.janich@morganlewis.com

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Washington, D.C. 20007-5109
Phone 202-672-5300
bnelson@foley.com

ALSO PRESENT:

Peter Zierline, Videographer

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| 12 | E X H I B I T S | |
| 13 | | PAGE LINE |
| 14 | Exhibit 1 , | 8 25 |
| 15 | Notice of Deposition | |
| 16 | (No Bates - 3 pages) | |
| 17 | Exhibit 2 , | 67 20 |
| 18 | DSP Delivery Excellence Performance - | |
| 19 | SCBZ at DAU1 - Week 32 - 2019 | |
| 20 | (AMAZON_H000191 - AMAZON_H000197) | |
| 21 | Exhibit 3 , | 70 19 |
| 22 | DSP Delivery Excellence Performance - | |
| 23 | SCBZ at DAU1 - Week 49 - 2019 | |
| 24 | (AMAZON_H000322 - AMAZON_H000329) | |
| 25 | Exhibit 4 , | 72 14 |
| 26 | DSP Delivery Excellence Performance - | |
| 27 | SCBZ at DDA1 - Week 38 - 2019 | |
| 28 | (AMAZON_H000867 - AMAZON_H000873) | |
| 29 | Exhibit 5 , | 75 9 |
| 30 | DSP Delivery Excellence Performance - | |
| 31 | SCBZ at DDA1 - Week 47 - 2019 | |
| 32 | (AMAZON_H000930 - AMAZON_H000936) | |
| 33 | Exhibit 6 , | 78 15 |
| 34 | DSP Scorecard - SCBZ at DDA2 - Week 27 | |
| 35 | - 2019 | |
| 36 | (AMAZON_H000953 - AMAZON_H000956) | |
| 37 | Exhibit 7 , | 81 2 |
| 38 | DSP Delivery Excellence Performance - | |
| 39 | SCBZ at DDA2 - Week 47 - 2019 | |
| 40 | (AMAZON_H001092 - AMAZON_H001099) | |

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| 1 | E X H I B I T S (Continued) | | |
| 2 | Exhibit 8 , | 81 | 25 |
| 3 | DSP Scorecard - SCBZ at DDA3 - Week 30 | | |
| - 2019 | | | |
| 4 | (AMAZON_H001134 - AMAZON_H001137) | | |
| 5 | Exhibit 9 , | 83 | 9 |
| 6 | DSP Delivery Excellence Performance - | | |
| 7 | SCBZ at DDA3 - Week 49 - 2019 | | |
| 8 | (AMAZON_H001276 - AMAZON_H001283) | | |
| 9 | Exhibit 10 , | 150 | 24 |
| 10 | 4/10/17 email from Shahan Ohanessian | | |
| 11 | to various recipients, Subject "Re: | | |
| 12 | New Work Order" | | |
| 13 | (SCOOBEZ-0000588 - SCOOBEZ-0000589) | | |
| 14 | Exhibit 11 , | 153 | 8 |
| 15 | 1/15/19 email from Shahan Ohanessian | | |
| 16 | to David Ojeda, Subject "Payments - | | |
| 17 | Important" | | |
| 18 | (SCOOBEZ-0001564) | | |
| 19 | Exhibit 12 , | 155 | 15 |
| 20 | 2/28/19 email from Shahan Ohanessian | | |
| 21 | to Kerry Person and David Ojeda, | | |
| 22 | Subject "Re: Discussion" | | |
| 23 | (SCOOBEZ-0001583 - SCOOBEZ-0001584) | | |
| 24 | Exhibit 13 , | 165 | 11 |
| 25 | 9/30/19 email from David Ojeda to | | |
| 26 | various recipients, Subject "Week 39 | | |
| 27 | Austin - Houston Review" | | |
| 28 | (AMAZON_E000522 - AMAZON_E000525) | | |
| 29 | Exhibit 14 , | 168 | 15 |
| 30 | 10/4/19 email from David Ojeda to Eric | | |
| 31 | Swanson and Jimmy Wilson, Subject "RE: | | |
| 32 | SCBZ History" | | |
| 33 | (AMAZON_E000126) | | |

PREVIOUSLY MARKED EXHIBITS

| | | | |
|----|------------|------|------|
| 21 | Exhibit 62 | PAGE | LINE |
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1 THE VIDEOGRAPHER: Good morning.

2 We're on the record at 9:09 a.m. on February 13,
3 2020. This is Media Unit No. 1 of the recorded
4 deposition of David Ojeda, in the matter of In
5 re: Scoobeez, filed in the United States 09:09
6 Bankruptcy Court, Central District of California,
7 Los Angeles Division. The case number is
8 2:19-bk-14989-WB.

9 This deposition is being held at
10 Bracewell, LLP located at 111 Congress in Austin, 09:10
11 Texas. My name is Peter Zierline, here with our
12 stenographer, Tamara Chapman, and we are with
13 Veritext.

14 Will counsel please identify
15 themselves for the record, after which the 09:10
16 stenographer will swear in the witness.

17 MR. WINSTON: Eric Winston of
18 Quinn Emanuel Urquhart & Sullivan for secured
19 creditor, Hillair Capital Management.

20 MR. DIAMANTATOS: Tinos 09:10
21 Diamantatos of Morgan Lewis on behalf of Amazon.

22 MR. JANICH: Brett Janich, Morgan
23 Lewis & Bockius, on behalf of Amazon.

24 MR. WINSTON: Would you swear in
25 the witness. 09:10

1 DAVID OJEDA,

2 having been first duly sworn, testified as follows:

3 EXAMINATION

4 BY MR. WINSTON:

5 Q. Good morning, Mr. Ojeda. 09:10

6 A. Good morning.

7 Q. Thank you for being here today. I'm sure
8 it's not the most fun way to spend a Thursday
9 morning, but we'll try to be efficient.

10 My name is Eric Winston. I'm with the law 09:11
11 firm of Quinn Emanuel. We represent Hillair Capital
12 Management in the Scoobeez bankruptcy case.

13 Before we get started, have you ever been
14 deposed before?

15 A. Yes, once. 09:11

16 Q. Once. How long ago?

17 A. About nine years.

18 Q. Nine years. Okay. So it's been a little
19 while?

20 A. Yes.

21 Q. So let me go over some ground rules, just
22 so that we move this along efficiently.

23 A. Sure.

24 Q. You've just been placed under oath, and
25 that's the same type of oath you would take as if you 09:11

1 A. Correct.

2 Q. A scorecard will come out measuring that
3 Sunday to Saturday?

4 A. Correct.

5 Q. How -- how long after the week ends does 10:31
6 that week's scorecard come out?

7 A. A few days.

8 Q. Okay. So if -- And it measures the entire
9 weekly performance. Correct?

10 A. Correct.

11 Q. Do you know how the information that is
12 used in the scorecard gets into the scorecard? And
13 I'll give you an example if I can. Presumably it
14 measures something about how many packages you
15 delivered?

16 A. Uh-huh.

17 Q. How would anyone know that when they're
18 preparing the scorecard?

19 A. So there is internal databases that have
20 information that house the information that's being 10:32
21 scored and that's how it's ingested.

22 Q. Okay. Do you have any -- any direct
23 involvement in the inputting of that internal data?

24 A. No.

25 Q. Okay. Do you oversee people that handle 10:32

1 Performance Program, which will include," and it has
2 three bullet points under that.

3 A. Okay.

4 Q. Do you see that?

5 A. Yes. 10:37

6 Q. Did Amazon launch that program?

7 A. Yes.

8 Q. Do you -- what was that program? What
9 was -- what was the purpose of it?

10 MR. DIAMANTATOS: Objection; 10:37

11 foundation.

12 A. The purpose was a -- an updated version of
13 the scorecard that measured a broader spectrum of
14 the -- of the execution of a DSP.

15 Q. Do you know whether Scoobeez registered 10:37
16 for that program?

17 A. I do not know.

18 Q. Okay. You can put this one aside.

19 (Exhibit 3 was marked.)

20 Q. Mark that Exhibit 3. 10:37

21 A. Thank you.

22 Q. Exhibit 3 is a document Bates-stamped
23 AMAZON_H000322 to 329.

24 A. Uh-huh.

25 Q. It is titled, "DSP Delivery Excellence 10:38

1 Q. Mr. Ojeda, do you recall receiving these
2 two emails?

3 A. I do. But can I correct something?

4 Q. Sure.

5 A. On this -- I guess -- I don't know why, 12:30
6 but you went from '17 to '19 or -- and then I guess
7 the director at this time was Eric Swanson, not
8 Penny. I think I said -- you asked Brittany. I said
9 Penny, but it's -- it was Eric.

10 Q. So you're looking at Exhibit 11. Is that 12:30
11 right?

12 A. I'm looking at Exhibit 11 and I'm --

13 Q. So --

14 A. What I had stated before, that Penny was a
15 director, a correction is that Eric Swanson was the 12:30
16 director at that time.

17 Q. Okay. Thank you for that correction.

18 All right. Do you recall receiving these
19 two emails?

20 A. Yes. 12:30

21 Q. All right. And on October -- sorry, not
22 October -- February 4th, 2019, do you understand
23 shahan@scoobeez.com means Mr. Ohanessian?

24 A. Yes.

25 Q. All right. Mr. Ohanessian is writing to 12:31

1 SIGNATURE PAGE
2

3 I, DAVID OJEDA, have read the foregoing
4 deposition and hereby affix my signature that same
5 is true and correct, except as noted on the
6 correction page.

7 _____
8 DAVID OJEDA
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1 UNITED STATES BANKRUPTCY COURT
2 CENTRAL DISTRICT OF CALIFORNIA
3 LOS ANGELES DIVISION

4 IN RE:

§

§

4 SCOOBEEZ, ET AL., § CASE NO. 2:19-BK-14989-WB

§

5 § JOINTLY ADMINISTERED:

6 DEBTORS AND § 2:19-BK-14991-WB

6 DEBTORS IN POSSESSION § 2:19-BK-14997-WB

7 REPORTER'S CERTIFICATION

8 DEPOSITION OF DAVID OJEDA

8 TAKEN FEBRUARY 13, 2020

9 I, TAMARA CHAPMAN, Certified Shorthand Reporter
10 in and for the State of Texas, hereby certify to the
11 following:

12 That the witness, DAVID OJEDA, was duly sworn
13 by the officer and that the transcript of the oral
14 deposition is a true record of the testimony given
15 by the witness;

16 That the original deposition was delivered to
17 ERIC WINSTON;

18 That a copy of this certificate was served on
19 all parties and/or the witness shown herein on
20 _____.

21 I further certify that pursuant to FRCP No.
22 30(f)(i) that the signature of the deponent:

23 was requested by the deponent or a party
24 before the completion of the deposition and that the
25 signature is to be returned within 30 days from date

1 of receipt of the transcript. If returned, the
2 attached Changes and Signature Page contains any
3 changes and the reasons therefor;

4 was not requested by the deponent or a party
5 before the completion of the deposition.

6 I further certify that I am neither counsel
7 for, related to, nor employed by any of the parties
8 in the action in which this proceeding was taken,
9 and further that I am not financially or otherwise
10 interested in the outcome of the action.

11 Certified to by me this 14th day of February, 2020.
12

13 
14

15
16 Tamara Chapman, CSR, RPR, CRR
17 CSR NO. 7248; Expiration Date: 04-30-21
18 Veritext Legal Solutions
19 Firm Registration No. 571
20 300 Throckmorton Street, Suite 1600
21 Fort Worth, Texas 76102
22 800-336-4000
23
24
25

Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

Veritext Legal Solutions complies with all federal and State regulations with respect to the provision of court reporting services, and maintains its neutrality and independence regardless of relationship or the financial outcome of any litigation. Veritext requires adherence to the foregoing professional and ethical standards from all of its subcontractors in their independent contractor agreements.

Inquiries about Veritext Legal Solutions' confidentiality and security policies and practices should be directed to Veritext's Client Services Associates indicated on the cover of this document or at www.veritext.com.

EXHIBIT 5

1 UNITED STATES BANKRUPTCY COURT
2 CENTRAL DISTRICT OF CALIFORNIA
3 LOS ANGELES DIVISION
4
5 -----
6 In re: SCOOBEEZ, et al.,) Case No.
7 debtors and debtors in) 2:19-bk-14989-WB
8 possession.) Jointly
9) Administered:
10) 2:19-bk-14991-WB;
11) 2:19-bk-14997-WB
12 -----
13
14
15 DEPOSITION OF VADIM KOZIN
16 Los Angeles, California
17 Friday, January 17, 2020
18 Volume I
19
20 Reported by:
21 LORI M. BARKLEY
22 CSR No. 6426
23 Job No. 3854256
24
25 PAGES 1 - 246

1 UNITED STATES BANKRUPTCY COURT
2 CENTRAL DISTRICT OF CALIFORNIA
3 LOS ANGELES DIVISION
4
5 -----
6

In re: SCOOBEEZ, et al.,) Case No.
7 debtors and debtors in) 2:19-bk-14989-WB
8 possession.) Jointly
9) Administered:
10) 2:19-bk-14991-WB;
11) 2:19-bk-14997-WB
12 -----
13
14
15

16 Deposition of VADIM KOZIN, Volume I,
17 taken at 865 South Figueroa Street, 10th Floor,
18 Los Angeles, California, beginning at 9:42 a.m., and
19 ending at 3:54 p.m., on Friday, January 17, 2020,
20 before LORI M. BARKLEY, Certified Shorthand Reporter
21 No. 6426.

1 APPEARANCES :

2

3 For HILLAIR CAPITAL MANAGEMENT, LLC:

4

QUINN, EMANUEL, URQUHART & SULLIVAN

5

BY: JENNIFER NASSIRI

6

- and -

7

BECCA E. DAVIS

8

Attorneys at Law

9

865 South Figueroa Street, 10th Floor

10

Los Angeles, California 90017

11

213.443.3000

12

jennifernassiri@quinnemanuel.com

13

beccadavis@quinnemanuel.com

14

15

16

For SCOOBEEZ:

17

MCNUTT LAW GROUP

18

By: SHANE MOSES

19

Attorney at Law

20

219 9th Street

21

San Francisco, California 94103

22

415.995.8475

23

smoses@ml-sf.com

24

25

1 APPEARANCES OF COUNSEL (continued):

2

3 For AMAZON LOGISTICS:

4

MORGAN LEWIS

5

BY: RICHARD W. ESTERKIN

6

Attorney at Law

7

300 South Grand Ave, 22nd Floor

8

Los Angeles, California 90071-3132

9

213.612.1163

10

resterkin@morganlewis.com

11

12

13

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|----|----------------|-----------------------------------|------|
| 1 | INDEX | | |
| 2 | | | |
| 3 | WITNESS | EXAMINATION | |
| 4 | VADIM KOZIN | | |
| 5 | Volume I | | |
| 6 | BY MS. NASSIRI | | 9 |
| 7 | | | |
| 8 | | | |
| 9 | EXHIBITS | | |
| 10 | NUMBER | DESCRIPTION | PAGE |
| 11 | Exhibit 50 | Hillair Capital Management, LLC's | 15 |
| 12 | | Notice of Deposition of Vadim | |
| 13 | | Kozin | |
| 14 | | | |
| 15 | Exhibit 51 | Eighteenth Amendment to Work | 61 |
| 16 | | Order under the Delivery Provider | |
| 17 | | Terms of Service, Bates stamped | |
| 18 | | SCOOBEEZ-0000479 through | |
| 19 | | SCOOBEEZ-0000492 | |
| 20 | | | |
| 21 | Exhibit 52 | E-mail from Judith Lozano, dated | 92 |
| 22 | | September 14, 2016, Bates stamped | |
| 23 | | AMAZON_E000051 | |
| 24 | | | |
| 25 | | | |

1 INDEX (Continued):

2 EXHIBITS

| 3 | NUMBER | DESCRIPTION | PAGE |
|----|------------|---|------|
| 4 | Exhibit 53 | E-mail from Vadim Kozin, dated June 20, 2016, Bates stamped AMAZON_E000048 | 99 |
| 5 | | | |
| 6 | | | |
| 7 | | | |
| 8 | Exhibit 54 | E-mail from Vadim Kozin, dated March 5, 2017, Bates stamped AMAZON_E000062 | 106 |
| 9 | | | |
| 10 | | | |
| 11 | | | |
| 12 | Exhibit 55 | E-mail from Nick Solari, dated April 25, 2019, Bates stamped AMAZON_E000066 | 110 |
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| 15 | | | |
| 16 | Exhibit 56 | E-mail from Suzy Ohanessian, dated September 17, 2018, Bates stamped AMAZON_E000063 | 115 |
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| 20 | Exhibit 57 | E-mail Chain, from November 2019, Bates stamped AMAZON_E000146 through AMAZON_E000156 | 127 |
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1 INDEX (Continued):

2 EXHIBITS

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|---------------|---|--------|
| 6 Exhibit 58 | E-mail Chain from July 2019, 7 Bates stamped AMAZON_E000187 8 through AMAZON_E000189 | 156 |
| 9 Exhibit 59 | E-mail Chain from April 2018, 10 Bates stamped AMAZON_E000177 11 through AMAZON_E000181 | 161 |
| 12 Exhibit 60 | E-mail from Vadim Kozin, dated 13 September 25, 2018, Bates stamped 14 AMAZON_E000065 | 169 |
| 16 Exhibit 61 | E-mail from David Ojeda, dated 17 February 12, 2018, Bates stamped 18 AMAZON_E000173 through 19 AMAZON_E000174 | 174 |
| 21 Exhibit 62 | E-mail chain with attachments, 22 dated September 2019, Bates 23 stamped AMAZON_E000190 | 182 |

1 INDEX (Continued):

2 EXHIBITS

| 3 NUMBER | 4 DESCRIPTION | 5 PAGE |
|---------------|--|--------|
| 6 Exhibit 63 | 7 E-mail from Brett Ogi to Vadim 8 Kozin, dated September 19, 2019, 9 with attachments, Bates stamped 10 AMAZON_E000192 | 11 190 |
| 12 Exhibit 64 | 13 Excel Spreadsheet, Bates stamped 14 AMAZON_E000379 | 15 196 |
| 16 Exhibit 65 | 17 E-mail Chain, dated April 14-15, 18 2017, Bates stamped 19 AMAZON_E000166 through 20 AMAZON_E000167 | 21 212 |
| 22 Exhibit 66 | 23 E-mail Chain from Nick Solari to 24 Vadim Kozin, Bates stamped 25 AMAZON_E000182 though AMAZON_E000184 | 26 217 |
| 27 Exhibit 67 | 28 E-mail Chain from January 2020, 29 Bates stamped SCOOBEEZ-0001653 30 through SCOOBEEZ-0001655 | 31 239 |

1 Los Angeles, California, Friday, January 17, 2020

2 9:42 a.m.

3

4 VADIM KOZIN,

5 having been administered an oath, was examined and
6 testified as follows:

7

8 EXAMINATION

9 BY MS. NASSIRI:

10 Q. Good morning. 10:05:28

11 A. Good morning. 10:05:29

12 Q. Can you state and spell your name for the 10:05:30
13 record, please? 10:05:32

14 A. Vadim Kozin, V-A-D-I-M. Last name 10:05:33
15 K-O-Z-I-N. 10:05:38

16 Q. And I'm Jennifer Nassiri, counsel for 10:05:38
17 Hillair, and my colleague is Becca Davis. 10:05:43

18 And then counsel. 10:05:48

19 MS. MOSES: Hi. I'm Shane Moses, counsel 10:05:48
20 for Scoobeez. 10:09:48

21 MR. ESTERKIN: And Richard Esterkin, Morgan 10:05:54
22 Lewis, on behalf of Amazon Logistics. 10:05:57

23 BY MS. NASSIRI: 10:06:00

24 Q. Mr. Kozin, have you ever been deposed 10:06:01
25 before? 10:06:03

| | | |
|----|---|----------|
| 1 | Q. Do you consider Scoobeez, look at all the | 15:13:54 |
| 2 | DSPs that you deal with, subpar compared to the | 15:14:04 |
| 3 | others? | 15:14:07 |
| 4 | MR. ESTERKIN: Objection, vague. | 15:14:07 |
| 5 | THE WITNESS: Yeah, that's -- | 15:14:11 |
| 6 | BY MS. NASSIRI: | 15:14:12 |
| 7 | Q. Okay. So if you had a bell curve -- you are | 15:14:12 |
| 8 | familiar with a bell curve, right? Economics, right? | 15:14:14 |
| 9 | Is Scoobeez at the bottom end -- in your experience, | 15:14:18 |
| 10 | I'm just asking your experience, your personal | 15:14:21 |
| 11 | experience -- | 15:14:23 |
| 12 | MR. ESTERKIN: Objection, vague. | 15:14:24 |
| 13 | BY MS. NASSIRI: | 15:14:25 |
| 14 | Q. -- where would Scoobeez fall in that | 15:14:26 |
| 15 | overall? | 15:14:28 |
| 16 | A. That's a really difficult and vague question | 15:14:29 |
| 17 | to answer. | 15:14:31 |
| 18 | Q. Why? | 15:14:32 |
| 19 | A. Because, one, I'm not too familiar with the | 15:14:33 |
| 20 | performance at DLA3. I haven't seen -- | 15:14:36 |
| 21 | Q. I'm only asking your experience among the | 15:14:38 |
| 22 | DSPs that you interact with and see how they perform | 15:14:42 |
| 23 | and get reports on, that's what I'm asking you. I'm | 15:14:45 |
| 24 | not asking you to tell me about Chicago or other | 15:14:47 |
| 25 | stations that you're not involved in, so just in your | 15:14:51 |

| | | |
|----|---|----------|
| 1 | experience. | 15:14:54 |
| 2 | A. From what I could see, they're average, | 15:14:56 |
| 3 | yeah. | 15:15:01 |
| 4 | MS. NASSIRI: Okay. I want to take a short | 15:15:02 |
| 5 | break. | 15:15:09 |
| 6 | | |
| 7 | (Recess taken.) | |
| 8 | | 15:37:00 |
| 9 | BY MS. NASSIRI: | |
| 10 | Q. Remember you're still under oath? | 15:37:02 |
| 11 | A. Yes. | 15:37:04 |
| 12 | Q. We were talking before the break about DSP | 15:37:04 |
| 13 | employees that may move around from one DSP to | 15:37:11 |
| 14 | another when the other DSP is being exited from the | 15:37:14 |
| 15 | system. | 15:37:17 |
| 16 | Do you recall that conversation? | 15:37:18 |
| 17 | A. Yes. | 15:37:19 |
| 18 | | |
| 19 | | |
| 20 | | |
| 21 | | |
| 22 | | |
| 23 | | |
| 24 | | |
| 25 | | |



1 I declare under penalty of perjury under the laws
2 of the State of California that the foregoing is true
3 and correct.

4 Executed on _____, 2020, at

5 _____, _____.
6
7
8
9 _____
10 VADIM KOZIN
11
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23
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25

1 STATE OF CALIFORNIA) ss.

2 COUNTY OF LOS ANGELES)

3

4 I, Lori M. Barkley, CSR No. 6426, do hereby
5 certify:

6 That the foregoing deposition testimony
7 taken before me at the time and place therein set
8 forth and at which time the witness was administered
9 the oath;

10 That the testimony of the witness and all
11 objections made by counsel at the time of the
12 examination were recorded stenographically by me, and
13 were thereafter transcribed under my direction and
14 supervision, and that the foregoing pages contain a
15 full, true and accurate record of all proceedings and
16 testimony to the best of my skill and ability.

17 I further certify that I am neither counsel
18 for any party to said action, nor am I related to any
19 party to said action, nor am I in any way interested
20 in the outcome thereof.

21 IN WITNESS WHEREOF, I have subscribed my
22 name this 28th day of January, 2020.

23

24 
Lori M. Barkley

25 LORI M. BARKLEY, CSR No. 6426

Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

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EXHIBIT 6

Page 1

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re:

SCOOBEEZ, et al.

Case No. 2:19-bk-14989-WB

Jointly Administered:

Debtors and Debtors in
Possession.

2:19-bk-14991-WB;

2:19-bk-14997-WB

Affects:

All Debtors

Scoobeez, ONLY

Scoobeez Global, Inc., ONLY

Scoobur LLC, ONLY

VIDEOTAPED 30(b)(6) DEPOSITION OF SCOOBEEZ

GEORGE VOSKANIAN

JANUARY 28, 2020

10:27 a.m.

300 South Grand Avenue, 24th Floor
Los Angeles, California

Diana Janniere, CSR-10034

Magna Legal Services
866-624-6221
www.MagnaLS.com

| APPEARANCES OF COUNSEL | | | INDEX OF EXHIBITS | | |
|---|---|--|---|--|--|
| For the Debtors and Debtors in Possession, Scoobeez, Scoobeez Global, Inc., and Scoobur, LLC: | | | EXHIBIT DESCRIPTION PAGE | | |
| FOLEY & LARDNER | 10 | 12/18/17 EMAIL TO MR. KABBANI FROM SHAHAN RE RETURNED PACKAGE | 267 | | |
| JOHN A. SIMON, ESQ. | 11 | 2/28/19 EMAIL TO K. PERSON FROM SHAHAN RE DISCUSSION | 272 | | |
| ONE DETROIT CENTER | 12 | 5/13/19 EMAIL TO AMAZON LOGISTICS COMPLIANCE FROM AMAZON LOGISTICS | | | |
| 500 WOODWARD AVENUE, SUITE 2700 | 7 | COMPLIANCE RE POLICY REMINDER - DSP OWNERSHIP TRANSFER | 295 | | |
| DETROIT, MICHIGAN 48226-3489 | | | | | |
| 313.234.7117 | | | | | |
| jsimon@foley.com | | | | | |
| For Amazon Logistics, Inc.: | 13 | NOTICE OF EXECUTED STALKING HORSE PURCHASE AGREEMENT | 305 | | |
| MORGAN LEWIS | 14 | MANAGEMENT REVIEW REPORT CONDUCTED | | | |
| TINOS DIAMANTATOS, ESQ. | 9/24/16 | 9/24/16 | 321 | | |
| ANDREW BARBER, ESQ. | 15 | 3/15/17 EMAIL STRING RE LETTER TO ABT HOLDINGS, ATTACHED ABOT LETTER, ARTICLE OF INCORPORATION | 346 | | |
| 77 WEST WACKER DRIVE | 16 | TO THE BOARD OF DIRECTORS OF ABT HOLDINGS | 346 | | |
| CHICAGO, ILLINOIS 60601-5094 | 17 | MR. VOSKANIAN'S HANDWRITTEN NOTES | 408 | | |
| 312.324.1145 | | | | | |
| tinos.diamantatos@morganlewis.com | | | | | |
| andrew.barber@morganlewis.com | | | | | |
| For Hillair Capital Investments: | 17 | (Original Exhibits 1 - 17 are attached hereto.) | | | |
| QUINN EMANUEL URQUHART & SULLIVAN | 18 | | | | |
| JENNIFER NASSIRI, ESQ. | 19 | | | | |
| 865 SOUTH FIGUEROA STREET, 10TH FLOOR | 20 | INSTRUCTED NOT TO ANSWER - COMMON-INTEREST PRIVILEGE | | | |
| LOS ANGELES, CALIFORNIA 90017 | 21 | PAGE LINE | | | |
| 213.443.3554 | 22 | 312 20 | | | |
| jennifernassiri@quinnemanuel.com | 23 | | | | |
| The Videographer: | 24 | | | | |
| VINCENT MAZZA | 25 | | | | |
| INDEX OF EXAMINATION | | | VIDEOTAPED 30(b)(6) DEPOSITION OF SCOOBEZ | | |
| WITNESS: GEORGE VOSKANIAN | | | GEORGE VOSKANIAN | | |
| EXAMINATION | | | JANUARY 29, 2020 | | |
| By Mr. Diamantatos | 6 | | | | |
| INDEX OF EXHIBITS | | | THE VIDEOGRAPHER: We are now on the record. | | |
| EXHIBIT | DESCRIPTION | PAGE | This begins Videotape No. 1, in the | | |
| 1 | AMAZON LOGISTICS, INC'S NOTICE OF 30(b)(6) DEPOSITION OF SCOOBEZ | 14 | deposition of George Voskanian, in the matter of | | |
| 2 | LINKED-IN PROFILE OF MR. VOSKANIAN | 26 | In Re: Scoobeez, et al., in the United States | | |
| 3 | DELIVERY PROVIDER TERMS OF SERVICE | 102 | Bankruptcy Court, Central District of California, | | |
| 4 | FIRST AMENDMENT TO WORK ORDER UNDER THE DELIVERY PROVIDER TERMS OF SERVICES | 104 | Los Angeles Division. | | |
| 5 | DELIVERY PROVIDER TERMS OF SERVICE (LAST UPDATED: JUNE 21, 2016) | | Today is January 29, 2020, and the time is | | |
| 6 | AMAZON BATES H000011 | 109 | 10:27 a.m. This deposition is being taken at 300 | | |
| 7 | DELIVERY PROVIDER TERMS OF SERVICE (LAST UPDATED: JUNE 21, 2016) | | South Grand Avenue, 24th Floor, Los Angeles, | | |
| 8 | KEY VEGA 000001 | 111 | California 90071, at the request of Morgan Lewis. | | |
| 9 | 3/28/16 EMAIL TO IMRAN FROM SHAHAN RE AUDIT QUESTIONS - AMAZON CONTRACT ATTACHED NEW PRICING | 116 | The videographer is Vincent Mazza of | | |
| 10 | 10/10/19 EMAIL STRING RE WE'RE THE ONLY ONE IN THE SYSTEM ADHERING TO ALL COMPLIANCE REQUIREMENTS | 197 | Magna Legal Services, and the court reporter is Diana Janniere of Magna Legal Services. | | |
| 11 | DEBTORS' NOTICE OF MOTION AND EMERGENCY MOTION FOR TRO AND PRELIMINARY INJUNCTION TO PREVENT VIOLATION OF THE AUTOMATIC STAY; DECLARATIONS OF MR. WEISS, MR. VOSKANIAN, MR. SHEIKH AND MS. McDOW IN SUPPORT THEREOF | 214 | Will counsel and all parties present state their appearances and whom they represent. | | |
| 12 | | | MR. SIMON: John Simon of Foley & Lardner representing the debtors Scoobeez, et al. | | |
| 13 | | | MS. NASSIRI: Jennifer Nassiri, Quinn Emanuel, on behalf of Hillair. | | |
| 14 | | | MR. BARBER: Andrew Barber, Morgan Lewis, on behalf of Amazon. | | |

| Page 6 | Page 8 |
|---|---|
| <p>1 MR. DIAMANTATOS: Tinos Diamantatos also on 2 behalf of Amazon.</p> <p>3 THE VIDEOGRAPHER: Will the court reporter 4 please swear in the witness.</p> <p>5</p> <p>6 GEORGE VOSKANIAN, 7 having been first duly sworn, testifies as follows:</p> <p>8</p> <p>9 EXAMINATION</p> <p>10 BY MR. DIAMANTATOS:</p> <p>11 Q Great. Good morning, Mr. Voskanian.</p> <p>12 A Good morning.</p> <p>13 Q Will you please state for us and spell your 14 full name?</p> <p>15 A George Voskanian. George, G-E-O-R-G-E, 16 V-O-S-K-A-N-I-A-N.</p> <p>17 Q Thank you.</p> <p>18 Mr. Voskanian, as you just heard, my name is 19 Tinos Diamantatos, along with my colleague Andrew 20 Barber. We are both lawyers for Amazon, one of the 21 parties in this lawsuit; okay?</p> <p>22 So we are here today, as you know, as part 23 of a lawsuit where certain claims have been made by 24 Scoobeez as they relate to Amazon.</p> <p>25 Are you familiar generally with the nature</p> | <p>1 A Yes. The gentleman that's -- myself or the 2 company?</p> <p>3 Q You can answer both, so yourself and the 4 company?</p> <p>5 A Myself, no, but the company, John Simon.</p> <p>6 Q Okay. Excellent.</p> <p>7 Mr. Simon is seated to your left; correct?</p> <p>8 A Yes.</p> <p>9 Q Okay. Great. So the court reporter, who is 10 here today, is taking down everything that we are 11 saying on the record, which means that we have to be 12 really mindful to not speak over one another, and I've 13 got to be careful not to interrupt your answers. And 14 I would just ask that you also try not to speak over 15 us to the extent possible. Okay?</p> <p>16 Another important point is that all of our 17 answers have to be verbal, as do the questions. So 18 that means that head nods or "um-hmm" answers, which 19 might work in conversation, don't work for purposes of 20 the record.</p> <p>21 So to the extent an answer is yes, I would 22 ask that you say, "yes." If an answer is no, I would 23 ask that you say, "no."</p> <p>24 Does that make sense?</p> <p>25 A Yes.</p> |
| Page 7 | Page 9 |
| <p>1 of the lawsuit?</p> <p>2 A Yes.</p> <p>3 Q Okay. Did you have an opportunity to review 4 any pleadings associated with the filings that have 5 been made in the Bankruptcy Court?</p> <p>6 A Yes.</p> <p>7 Q Okay. Have you ever been deposed before?</p> <p>8 A No.</p> <p>9 Q Have you ever had to prepare for a 10 deposition before?</p> <p>11 A Other than this one?</p> <p>12 Q Yes.</p> <p>13 A No.</p> <p>14 Q Have you ever testified in a court 15 proceeding on the witness stand under oath before?</p> <p>16 A No.</p> <p>17 Q This is your first time?</p> <p>18 A Yes. I am not in the habit of getting 19 lawsuits.</p> <p>20 Q Okay. I am just going to cover, very 21 briefly, a few of the ground rules for today just to 22 make sure that we are on the same page before we start 23 digging into some of the substance.</p> <p>24 All right. Are you represented by a lawyer 25 here today?</p> | <p>1 Q If during the course of today we forget 2 that, I will try to perk up and maybe ask a follow-up 3 question and ask you to confirm if it's a yes or a no. 4 I am not being confrontational.</p> <p>5 I'm just making sure, hopefully, that our 6 record is clear on that. Sound good?</p> <p>7 A Yeah.</p> <p>8 Q As you know, this is a video-taped 9 deposition. So you are also being video-recorded 10 during the course of today's deposition.</p> <p>11 All right. When I ask a question, to the 12 extent a question of mine does not make sense, please 13 let me know that.</p> <p>14 If you don't understand the question or need 15 me to rephrase it, I'd ask that you tell me that. So 16 that I can do my job and ask you a good, clean 17 question to make sure that you understand it before 18 you go ahead and commit to answering it. All right?</p> <p>19 A Cool.</p> <p>20 Q During the course of the day, we will be 21 taking periodic breaks. There's portions of the 22 testimony that I expect might be a good stopping point 23 to take a break.</p> <p>24 We will try to take a break every hour, hour 25 and a half or so, depending on where we are at with</p> |

Page 274

1 A I think he was trying to look engaged that
2 he was interested in 2.0 not to come across that we
3 didn't want it.

4 Q Okay.

5 A But at the same time, he was just -- it's a
6 delay tactic. Like, I don't think we ever wanted to
7 go to 2.0 because, as I said, it doesn't make sense
8 for DSPs who have a lot of debt.

9 Q What about in your individual capacity
10 during this time period, did you have an understanding
11 of what was going on?

12 A My understanding was if you go to 2.0, we
13 are going to close doors because our pricing is higher
14 than the competitors, and given we were one of the,
15 sort of, first DSPs, we had taken on stuff that we
16 should not have taken on. We had gone into a lot of
17 debt. And to service the debt, the 2.0 wouldn't cover
18 that. The 2.0 worked for new DSPs, not old ones.

19 Q I understand.

20 A And my suggestion was, like: Look, if you
21 go to 2.0, it is a catch 22. If you don't -- your
22 only client is telling you to move there, but if you
23 do, you are closing doors because, financially, it
24 just simply didn't make sense, given the small pieces
25 of information we were getting.

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1 Q Okay. All right. I understand. Thank you
2 for your answer. That's --

3 So is it fair to say that Scoobeez had no
4 intention of moving to a DSP 2.0 model ever?

5 A No, that's not -- that is not fair to say.
6 What is fair to say is, our goal was to stay with 1.0
7 as long as possible.

8 Q Okay. With the understanding that if you
9 didn't switch to DSP 2.0, you would be terminated by
10 Amazon potentially; correct?

11 A No. No, not terminated, but just to think
12 that there is that risk, you don't want to take that
13 risk because we knew there were other DSP's that were
14 1.0, so -- and then given our size, it is difficult to
15 terminate us; right?

16 It just -- Scoobeez has always been --
17 that's what is frustrating is, like, it has always
18 been so focused on Amazon's satisfaction, and it's
19 done everything possible to make sure Amazon is happy.

20 This was one of the things they were like,
21 okay, we need to switch; but we need to figure out a
22 way to switch and the timing of things.

23 Q All right. Let me go back,
24 Mr. Ohanessian -- I'm sorry -- Mr. Voskanian, to a few
25 things that you have just said. So --

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1 All right. So Scoobeez, as you sit here as
2 a corporate representative of Scoobeez, understood
3 that it was on the DSP 1.0 model and always has been
4 with Amazon; correct?

5 A Right.

6 Q Scoobeez understood that at least as early
7 as 2018, if not as early as 2017, based on that first
8 E-mail that we looked at, that Amazon started to have
9 communications with Scoobeez about switching to a DSP
10 2.0 model; correct?

11 A Correct. But -- yes.

12 Q Hold on.

13 A Yeah.

14 Q And Scoobeez, I think you've indicated, as
15 you sit here, understood that it wouldn't be
16 profitable for Scoobeez or cost-effective given
17 Scoobeez --

18 Yeah. I'd just, please, ask you not to
19 communicate with your lawyer with phone and messages
20 and all of that while the deposition is -- is going
21 on.

22 If you need to communicate with your lawyer,
23 you can do that outside during a break. Okay?

24 A Okay.

25 Q Thank you.

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1 You indicated that Scoobeez, as you sit here
2 today in your corporate capacity, had an understanding
3 that it would not be profitable for Scoobeez, based on
4 its pricing structure, its large footprint, and other
5 variables, to switch, actually, from a DSP 1.0 to a
6 DSP 2.0; is that fair?

7 MR. SIMON: Can you repeat the question?

8 THE WITNESS: Yeah.

9 MR. SIMON: I'm sorry.

10 THE REPORTER: Let me get it.

11 (Whereupon, the question was read
12 back as follows:

13 "Q You indicated that Scoobeez,
14 as you sit here today in your
15 corporate capacity, had an
16 understanding that it would not be
17 profitable for Scoobeez, based on
18 its pricing structure, its large
19 footprint and other variables, to
20 switch, actually, from a DSP 1.0 to
21 a DSP 2.0; is that fair?"

22 THE WITNESS: Given the information we were
23 given -- and, again, we didn't receive the actual
24 structure of 2.0.

| Page 286 | Page 288 |
|--|---|
| <p>1 A No. That was -- because we focused on the 2 large pieces. First, we had to figure out the large 3 pieces, but we didn't know the pricing, No. 1.</p> <p>4 But what we did know was, like: A, if -- if 5 it is streamline pricing, we are definitely giving 6 back our gains, and that's -- it is basically just 7 something that it was difficult for us to sustain 8 given our --</p> <p>9 Q Okay. Did you have an understanding as to 10 whether or not Amazon under the 2.0 wanted it to be 11 more hands-on in terms of the owner actually 12 day-to-day operating the business at the various D.C. 13 locations?</p> <p>14 A I -- if that was their intention, maybe, but 15 I don't -- it would not affect us at all because we 16 had extensive travel of senior management to the 17 locations anyway, so it felt like we had, you know --</p> <p>18 Q Right. So it sounds like based on the 19 criteria that you've described for us, there was one 20 positive or net positive, the fuel issue you described 21 for us and explained to us.</p> <p>22 Other changes from the 1.0 to 2.0 may not 23 necessarily be favorable for Scoobeez; right?</p> <p>24 So the pricing that you described, the 25 renting issues and then the whole dispatcher</p> | <p>1 here, that -- with Amazon, that -- and he CC'd 2 David Ojeda -- is that right -- on this E-mail 3 according to the stamp?</p> <p>4 And I know you're not on this E-mail 5 yourself.</p> <p>6 A I see the first E-mail being CC'd. The 7 second one, I don't know who's CC'd on it.</p> <p>8 Q Got it. Okay. But at least the first one, 9 we see he BCC'd David Ojeda?</p> <p>10 A Yup.</p> <p>11 Q And I'm not sure why the format looks like 12 this. This, as you know, is a document produced by 13 your lawyers, so I have the same format that you are 14 looking at.</p> <p>15 A Yeah.</p> <p>16 Q Okay. You indicated earlier that it was 17 your understanding that trying for -- Scoobeez wanted 18 to stay on that 1.0 model as long as possible; 19 correct? Is that fair?</p> <p>20 A I mean, we were -- we were happy to move to 21 2.0 if -- that was make it or break it -- and we 22 were -- we would find a way to, you know, be 23 sustainably positive, you know, profitable if that was 24 the case.</p> <p>25 But if we know that there are other DSPs</p> |
| Page 287 | Page 289 |
| <p>1 reimbursement, those were all negatives, candidly, for 2 Scoobeez switching to 2.0 in your estimation; correct?</p> <p>3 A Correct.</p> <p>4 Q All right. In this E-mail exchange that we 5 are looking at in the exhibit that is in front of you, 6 according to Mr. Shahan -- I will just call him that 7 for short.</p> <p>8 A Okay.</p> <p>9 Q It is clear that he describes having 10 received an E-mail link or a contract from David -- 11 right -- and that that link at some point expired; is 12 that right?</p> <p>13 A Yes.</p> <p>14 Q At the top of the E-mail, the one sent, 15 according to the time stamp on the E-mail, 16 February 28, 2019. Mr. Ohanessian tells Cari, "Hi. I 17 hope all is well. I'm following" -- sorry -- 18 "following up about this E-mail seeking your support 19 to migrate to the new DSP contract. I still don't 20 have access to the link previously sent and was 21 recently informed that the DSC 1.0 migrations were put 22 on hold. Any help you can offer would be greatly 23 appreciated," and then the E-mail goes on.</p> <p>24 So am I correct that it -- in this E-mail, 25 we see that Mr. Shahan is describing, at least to Cari</p> | <p>1 that are 1.0 and they are not moving, why should we, 2 you know, move if it is detrimental?</p> <p>3 Q I understand. So let's break that down a 4 little bit.</p> <p>5 So we've already established, Scoobeez is a 6 1.0. You indicated a moment ago that Scoobeez would 7 be willing to move to 2.0 if it became, I think you 8 said, "make it or break it"; right?</p> <p>9 A Right.</p> <p>10 Q Okay. Would you agree with me that it was a 11 business risk for Scoobeez to not move to 2.0, not 12 knowing how Amazon would ultimately react to that?</p> <p>13 A Yes and no, because Amazon was sort of in 14 the habit of in the past rolling out a program and 15 rolling it back. They would always start with 16 something, and they're like oh, nevermind.</p> <p>17 They would launch this program. Oh, 18 nevermind. And then, we heard a lot about the 2.0's 19 problems that Amazon was not happy with.</p> <p>20 Q Okay.</p> <p>21 A So the problem with the 2.0's is, they don't 22 pay overtime to drivers -- I mean, I am sorry -- 23 Amazon does not pay overtime to DSPs. Currently, we 24 get paid for overtime.</p> <p>25 Q Okay. So, Mr. Voskanian, I don't want to be</p> |

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1 copy?
2 MS. NASSIRI: Yes, electronic only.
3 THE REPORTER: Thank you.
4 (The deposition concluded at 7:38 p.m.)
5 * * *

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1 DECLARATION ERRATA SHEET
2
3
4 Our Assignment No. 546157
5 Case Caption: In re: Scoobeez, et al.
6
7
8 DECLARATION UNDER PENALTY OF PERJURY
9 I declare under penalty of perjury that I
10 have read the foregoing transcript of my deposition
11 taken in the above-captioned matter or the same has
12 been read to me, and the same is true and accurate,
13 save and except for the changes and/or corrections, if
14 any, as indicated by me on the DEPOSITION ERRATA SHEET
15 hereof, with the understanding that I offer these
16 changes as if still under oath.

17 Signed on the _____ day of
18 _____, 2020.

22 GEORGE VOSKANIAN

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1 REPORTER'S CERTIFICATION
2
3 I, Diana Janniere, a Certified Shorthand Reporter,
4 in and for the State of California, do hereby certify:
5
6 That the foregoing witness was by me duly sworn;
7 That the deposition was then taken before me at the
8 time and place herein set forth; that the testimony
9 and proceedings were reported stenographically by me
10 and later transcribed into typewriting under my
11 direction; and that the foregoing is a true record of
12 the testimony and proceedings taken at that time.
13
14 IN WITNESS WHEREOF, I subscribed my name
15 this 7th day of February, 2020.

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1 DEPOSITION ERRATA SHEET
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24 SIGNATURE: _____ DATE _____
25 GEORGE VOSKANIAN

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23 _____

24 SIGNATURE: _____ DATE _____

25 GEORGE VOSKANIAN

EXHIBIT 7

Page 1

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re:

SCOOBEZ, et al.

Case No. 2:19-bk-14989-WB

Jointly Administered:

Debtors and Debtors in
Possession.

2:19-bk-14991-WB;
2:19-bk-14997-WB

Affects:

All Debtors

Scoobeez, ONLY

Scoobeez Global, Inc., ONLY

Scoobur LLC, ONLY

VIDEOTAPED DEPOSITION OF SCOTT A. SHEIKH

JANUARY 29, 2020

10:06 a.m.

300 South Grand Avenue, 24th Floor
Los Angeles, California

Diana Janniere, CSR-10034

Magna Legal Services
866-624-6221
www.MagnaLS.com

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| 1 APPEARANCES OF COUNSEL | | | 1 INDEX OF EXHIBITS | | |
| 2 | | | 2 EXHIBIT DESCRIPTION PAGE | | |
| 3 For the Debtors and Debtors in Possession, Scoobeez, Scoobeez Global, Inc., and Scoobur, LLC: | | | 3 12 NOTICE OF EXECUTED STALKING HORSE PURCHASE AGREEMENT 268 | | |
| 4 | | | 4 | | |
| 5 FOLEY & LARDNER | | | 5 13 NOTICE OF POTENTIAL ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES IN CONNECTION WITH SALE 270 | | |
| 6 JOHN A. SIMON, ESQ. ONE DETROIT CENTER 500 WOODWARD AVENUE, SUITE 2700 DETROIT, MICHIGAN 48226-3489 313.234.7117 jsimon@foley.com | | | 7 14 MANAGEMENT REVIEW REPORT CONDUCTED 9/24/16 281 | | |
| 8 | | | 8 | | |
| 9 For Amazon Logistics, Inc.: | | | 9 15 3/15/17 EMAIL TO GIL CABRERA, ET AL., FROM ABT - IMRAN FIROZ 293 | | |
| 10 MORGAN LEWIS TINOS DIAMANTATOS, ESQ. | | | 10 16 TO THE BOARD OF DIRECTORS OF ABT HOLDINGS 296 | | |
| 11 ANDREW BARBER, ESQ. 77 WEST WACKER DRIVE CHICAGO, ILLINOIS 60601-5094 312.324.1145 tinos.diamantatos@morganlewis.com andrew.barber@morganlewis.com | | | 11 | | |
| 12 | | | 12 17 VERIFIED COMPLAINT - HILLAIR CAPITAL MANAGEMENT VS. SCOOBEEZ GLOBAL, INC. 312 | | |
| 13 | | | 13 | | |
| 14 | | | 14 (Original Exhibits 1 - 17 are attached hereto.) | | |
| 15 For Hillair Capital Investments: | | | 15 17 INSTRUCTED NOT TO ANSWER - ATTORNEY-CLIENT PRIVILEGE | | |
| 16 QUINN EMANUEL URQUHART & SULLIVAN BECCA E. DAVIS, ESQ. | | | 16 PAGE LINE | | |
| 17 865 SOUTH FIGUEROA STREET, 10TH FLOOR LOS ANGELES, CALIFORNIA 90017 213.443.3554 beccadavis@quinnemanuel.com | | | 17 19 16 9 | | |
| 18 | | | 18 20 18 21 | | |
| 19 | | | 19 21 23 5 | | |
| 20 The Videographer: | | | 20 22 26 12, 21 | | |
| 21 VINCENT MAZZA | | | 21 23 29 8 | | |
| 22 | | | 22 24 43 17 | | |
| 23 | | | 23 25 50 17 | | |
| 24 | | | | | |
| 25 | | | | | |
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| 1 INDEX OF EXAMINATION | | | 1 INSTRUCTED NOT TO ANSWER - ATTORNEY-CLIENT PRIVILEGE | | |
| 2 WITNESS: SCOTT A. SHEIKH | | | 2 PAGE LINE | | |
| 3 EXAMINATION | | | 3 51 2 | | |
| 4 By Mr. Diamantatos | | | 4 53 2 | | |
| 5 | | | 5 58 12 | | |
| 6 INDEX OF EXHIBITS | | | 6 66 12 | | |
| 7 EXHIBIT DESCRIPTION PAGE | | | 7 67 2, 4, 6 | | |
| 8 1 DEBTORS' NOTICE OF MOTION AND EMERGENCY MOTION FOR TRO AND PRELIMINARY INJUNCTION TO PREVENT VIOLATION OF THE AUTOMATIC STAY; | | | 8 71 6 | | |
| 9 DECLARATIONS OF MR. WEISS, MR. VOSKANIAN, MR. SHEIKH AND MS. McDOW IN SUPPORT THEREOF | | | 9 89 2 | | |
| 10 | | | 10 105 22 | | |
| 11 2 MR. SHEIKH'S LINKED-IN PAGE | | | 11 111 8, 12, 17, 19 | | |
| 12 3 ABT HOLDINGS, INC. PRESENTS SCOOBEEZ | | | 12 116 17 | | |
| 13 4 DELIVERY PROVIDER TERMS OF SERVICE | | | 13 118 14 | | |
| 14 5 DELIVERY PROVIDER TERMS OF SERVICE (LAST UPDATED: OCTOBER 5, 2015) | | | 14 119 15 | | |
| 15 6 DELIVERY PROVIDER TERMS OF SERVICE (LAST UPDATED: JUNE 21, 2016) | | | 15 122 14 | | |
| 16 7 DECLARATION OF SEAN M. MCAVOY IN SUPPORT OF PLAINTIFF'S EX PARTE APPLICATION TO APPOINT RECEIVER | | | 16 123 14 | | |
| 17 8 10/2/19 E-MAIL TO MR. KAUFMAN FROM MR. VOSKANIAN | | | 17 124 5, 22 | | |
| 18 9 12/19/19 E-MAIL STRING RE HOLIDAY PARTY | | | 18 128 24 | | |
| 19 10 252 | | | 19 129 7 | | |
| 20 11 259 | | | 20 130 1 | | |
| 21 | | | 21 132 3, 14 | | |
| 22 12/19/19 E-MAIL STRING RE SCBZ - AMAZON - HILLAIR | | | 22 134 1, 5, 12, 17 | | |
| 23 | | | 23 140 9 | | |
| 24 | | | 24 145 12 | | |
| 25 | | | 25 147 9, 19 | | |

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|--|--|
| 1 INSTRUCTED NOT TO ANSWER - ATTORNEY-CLIENT PRIVILEGE | 1 VIDEOTAPED DEPOSITION OF SCOTT A. SHEIKH |
| 2 PAGE LINE | 2 JANUARY 28, 2020 |
| 3 149 10 | 3 |
| 4 150 24 | 4 THE VIDEOGRAPHER: We are now on the record. |
| 5 151 21 | 5 This begins Videotape No. 1 in the deposition of Scott |
| 6 153 13 | 6 Sheikh in the matter of In Re: Scoobeez, et.al, in |
| 7 158 17 | 7 the United States Bankruptcy Court, Central District |
| 8 159 11 | 8 of California, Los Angeles Division. |
| 9 165 15 | 9 Today is January 28, 2020, and the time is |
| 10 173 9 | 10 10:06 a.m. This deposition is being taken at 300 |
| 11 280 15 | 11 South Grand Avenue, 24th Floor, Los Angeles, |
| 12 283 23 | 12 California 90071, at the request of Morgan Lewis. |
| 13 285 20 | 13 The videographer is Vincent Mazza of Magna |
| 14 286 13 | 14 Legal Services, and the court reporter is Diana |
| 15 290 20 | 15 Janniere of Magna Legal Services. |
| 16 297 12 | 16 Will counsel and all parties present state |
| 17 298 2 | 17 their appearances and whom they represent? |
| 18 300 7,20 | 18 MR. SIMON: John Simon, counsel for the |
| 19 301 4,21 | 19 debtors, Scoobeez, et al. |
| 20 302 10 | 20 MS. DAVIS: Becca Davis, counsel for |
| 21 307 25 | 21 Hillair. |
| 22 308 7 | 22 MR. BARBER: Andrew Barber on behalf of |
| 23 317 14 | 23 Amazon. |
| 24 319 20 | 24 MR. DIAMANTATOS: Tinos Diamantatos also on |
| 25 320 15 | 25 behalf of Amazon. |
| Page 7 | Page 9 |
| 1 INSTRUCTED NOT TO ANSWER - ATTORNEY-CLIENT PRIVILEGE | 1 SCOTT A. SHEIKH, |
| 2 PAGE LINE | 2 having been first duly sworn, testifies as follows: |
| 3 334 8 | 3 |
| 4 337 12 | 4 EXAMINATION |
| 5 | 5 BY MR. DIAMANTATOS: |
| 6 | 6 Q Okay. Good morning, Mr. Sheikh. |
| 7 | 7 A Good morning. |
| 8 | 8 Q If you could please state your full name for |
| 9 | 9 us and spell the last. |
| 10 | 10 A Sure. It's Scott Amin Sheikh, S-H-E-I-K-H. |
| 11 | 11 Q Okay. Mr. Sheikh, as you just heard, my |
| 12 | 12 name is Tinos Diamantatos. I'm one of the attorneys |
| 13 | 13 that's here today for Amazon. |
| 14 | 14 Our purpose for being here today is to ask |
| 15 | 15 you questions with regard to certain claims that |
| 16 | 16 Scoobeez has made against Amazon. Okay. Am I correct |
| 17 | 17 that you're an attorney? |
| 18 | 18 A That's correct. |
| 19 | 19 Q We'll get into some of your background in |
| 20 | 20 more detail a little bit later this morning, but have |
| 21 | 21 you ever been deposed before? |
| 22 | 22 A I have. |
| 23 | 23 Q Okay. Approximately how many times? |
| 24 | 24 A Twice. |
| 25 | 25 Q Were those in connection with civil cases? |

| | |
|---|---|
| <p style="text-align: right;">Page 234</p> <p>1 made, if any, to try to obtain scorecards of any other 2 DSP?</p> <p>3 A I don't know if he made any such efforts.</p> <p>4 Q What about mask efforts?</p> <p>5 What I mean by that is get rid of the names 6 of the other DSPs, but be able to compare how you're 7 doing based on the scorecard to other DSPs with their 8 names masked.</p> <p>9 Do you know whether anybody at Scoobeez made 10 any efforts to obtain that type of information?</p> <p>11 A I don't know the -- I don't know the answer.</p> <p>12 Q Do you know whether Mr. Munoz did 13 specifically or not?</p> <p>14 A No.</p> <p>15 Q Okay. You already told us a moment ago that 16 it sounds like there was a five kind of point system 17 on the scale.</p> <p>18 On the one end of the spectrum, Mr. Sheikh, 19 you started with poor, and then, it went up to fair, 20 then, it went to great; then, it went to fantastic, 21 then, it went to fantastic plus; right?</p> <p>22 A Correct.</p> <p>23 Q Obviously, given the name convention, it's 24 your understanding that poor is not -- on the not good 25 end and fantastic plus is on the fantastic plus good</p> | <p style="text-align: right;">Page 236</p> <p>1 that I'm familiar with, I could tell you if these are 2 ones that I've seen.</p> <p>3 Amazon posts the scorecards, I believe, on 4 their logistics platform. The -- the underlying data, 5 I mean, we don't store. So I would have no way to 6 verify that.</p> <p>7 So I -- I don't have reason to doubt it, but 8 I don't have any reason to believe that it's 9 completely accurate either.</p> <p>10 Q Okay. Is the information that Scoobeez 11 posts in terms of the scorecard, is it something that 12 Scoobeez accesses on a regular basis during its own 13 course of business?</p> <p>14 A So -- you said, "Scoobeez posts." So Amazon 15 posts.</p> <p>16 Q Sorry, Amazon posts, I misspoke.</p> <p>17 A No, no problem. And yes, we -- we get them 18 on a weekly basis, I believe on Tuesday.</p> <p>19 Q All right. And by weekly, they at least 20 cover the previous week's period, so they're made at 21 the time that the -- they're -- that the DSP, in this 22 case Scoobeez, is out there doing the work for Amazon; 23 correct?</p> <p>24 A So the one we get on Tuesday of this week -- 25 so is today Tuesday? Yes.</p> |
| <p style="text-align: right;">Page 235</p> <p>1 end; right?</p> <p>2 A Correct.</p> <p>3 Q Based on that, given that there are five 4 kind of points along the scale, is it your 5 understanding that great is essentially an -- an 6 average score?</p> <p>7 A I don't know the answer to that. I mean, I 8 would be speculating, but, I mean, given that there 9 are five tiers -- I know that fantastic plus is 10 extremely difficult to achieve.</p> <p>11 Q Okay.</p> <p>12 A So if you take that out of the equation, you 13 have four left, I would assume that fair is, like, the 14 middling position.</p> <p>15 Q Okay. All right. So according to you, fair 16 is a middling position; is that what you said?</p> <p>17 A That is what I said, yes.</p> <p>18 Q Okay. All right. Do you have any reason to 19 dispute the authenticity or veracity of the scorecards 20 that were produced by Amazon?</p> <p>21 A And I can show them to you.</p> <p>22 Q Okay. All right. Do you have any reason to 23 dispute the authenticity or veracity of the scorecards 24 that were produced by Amazon?</p> <p>25 A Sure. I mean, if you showed me scorecards</p> | <p style="text-align: right;">Page 237</p> <p>1 Q Yes.</p> <p>2 A Would cover the last Sunday to Saturday 3 calendar week.</p> <p>4 Q Okay.</p> <p>5 A So yes. I haven't seen today's yet, but --</p> <p>6 Q All right. You've described Scoobeez as a 7 high performer for Amazon; right?</p> <p>8 A During what period of time?</p> <p>9 Q During -- let's -- great -- great 10 clarification point.</p> <p>11 A Sure.</p> <p>12 Q Would you call Scoobeez as a -- as a high 13 performer for Amazon?</p> <p>14 A So I -- I wasn't directly involved in 15 operations between May and August. Mrs. Ohanessian 16 was.</p> <p>17 Q Okay.</p> <p>18 A I began getting involved in operations in 19 August, and I've seen an upward trajectory in the -- 20 in the scorecard since then.</p> <p>21 Q Okay. So is it your testimony you have 22 reviewed since -- what period did you start becoming 23 more operationally involved post-May 2019?</p> |

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| <p>1 Q -- but also some poor scores at other 2 locations, including one that improved from poor to 3 fantastic during some period of time; correct?</p> <p>4 A I mean -- and I'm going to just ask you to 5 make -- make sure I understand your question.</p> <p>6 Q Sure.</p> <p>7 A Are you asking whether Scoobeez has, in 8 fact, had scores that ranged from the poor part of the 9 spectrum to the fantastic part of the spectrum in 10 2019?</p> <p>11 Q Yes.</p> <p>12 A The answer is yes.</p> <p>13 Q Okay. In May of 2019, where you came in and 14 started at least getting your feet wet with the 15 operational component, I know that increased as you've 16 described over time in 2019, did you have a sense of 17 how Amazon viewed Scoobeez as a performer?</p> <p>18 A Not direct knowledge.</p> <p>19 Q What about indirectly? Did anybody at 20 Scoobeez tell you, hey, here's what Amazon thinks of 21 us?</p> <p>22 A I -- when -- up to a certain point, most of 23 what I've learned about operations was either through 24 Mr. Voskanian or Mrs. Ohanessian. Mrs. Ohanessian 25 took the position that, you know, Amazon loved us.</p> | <p>1 specifics, but, you know, at different points, you 2 know, I've heard through the grapevine through, again, 3 the -- our dispatchers; our hub leaders; our 4 operations lead; you know, how Amazon perceives the 5 performance; but from Amazon directly, the answer is 6 no.</p> <p>7 Actually, I take that back. Mr. Kozen, when 8 I met with him a few months ago did -- did mention 9 that he -- he -- you know, he's happy with the service 10 that Scoobeez provides -- Scoobeez provides, so --</p> <p>11 Q Amazon has site leads at each of their 12 distribution centers; correct?</p> <p>13 A I don't know how their internal structure 14 works. I know they have a hierarchy, and presumably, 15 they have somebody at each hub.</p> <p>16 Q Okay. Tab 60.</p> <p>17 A I apologize. I also heard from Aarie 18 Hibbler at DCH-2 -- A-A-R-I-E, H-I-B-B-L-E-R.</p> <p>19 THE REPORTER: Slow down. Start over.</p> <p>20 THE WITNESS: H-I-B-B-L-E-R last name.</p> <p>21 Aarie, A-A-R-I-E, over at DCH-2 in Morton Grove that, 22 you know, they were pleased with Scoobeez' 23 performance. This was a few months back.</p> <p>24 (Exhibit 9 marked.)</p> |
| Page 251 | Page 253 |
| <p>1 And when I say "us," I'm referring to 2 Scoobeez. And Mr. Ohanessian was more data oriented 3 and would, you know, refer me to, you know, when he 4 was explaining to me what these scorecards are and 5 what they mean; and how they operate; more to -- to 6 the data side of things.</p> <p>7 But whether I have any direct knowledge of 8 conversations with Amazon or statements made by 9 Amazon, the answer is no.</p> <p>10 Q Okay. I think you just answered the last 11 piece there. There's nothing from Amazon directly to 12 you conversation-wise that would indicate how pleased 13 Amazon was with Scoobeez; is that fair?</p> <p>14 A To -- to me, no. I mean, I've heard from 15 our employees out on the field -- you know, for 16 example, when during peak -- this past peak season in 17 DCH-1 when they're performing well, they -- you know, 18 the local -- the local folks have different ways of, I 19 guess, passing their time.</p> <p>20 I guess, at DCH-1, for example, they have 21 this WWE heavyweight belt that they hand out to what 22 they perceive as the best performing DSP; and that was 23 given to one of our -- our hub leader in DCH-1 back 24 in, I think, December or earlier this year.</p> <p>25 You know, going back, I mean, I don't recall</p> | <p>1 BY MR. DIAMANTATOS:</p> <p>2 Q I'm going to hand you what has been labeled 3 as Sheikh Exhibit 9. It's a two-page document. It's 4 Bates label is Hillair 00000798 through 799. 5 Take a moment to familiarize yourself with 6 that.</p> <p>7 A Okay.</p> <p>8 Q Are you familiar with that E-mail?</p> <p>9 A I am familiar with the part where it says 10 begin forwarded message.</p> <p>11 Q Great. Okay.</p> <p>12 A I know that Mr. Voskanian sent that E-mail 13 to Mr. Kaufman.</p> <p>14 Q Okay. So your reference saying the first 15 E-mail which appears on the bottom of 798 and spills 16 over onto 799, that E-mail you are a carbon copy 17 recipient on it; correct?</p> <p>18 A Yeah, that's the third E-mail.</p> <p>19 Q The previous two E-mails -- or the following 20 two E-mails, I should say, later in time on the --</p> <p>21 A Sure.</p> <p>22 Q -- front page of the document, you are no 23 longer on that E-mail chain. You drop off from that.</p> <p>24 So you're familiar with the E-mail that 25 you're on, of course; correct?</p> |

| Page 286 | Page 288 |
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| <p>1 only members of the board and lack of any independent 2 oversight? Anything outside of your attorney-client 3 privileged communications?</p> <p>4 A No.</p> <p>5 Q Coming in as int -- sorry, not interim. The 6 co-CEO in May of 2019, as you became aware over the 7 next several months of some of these alleged 8 improprieties in the public filings at least that you 9 were reading, did that give you concern about how 10 Scoobeez had conducted its business in the past?</p> <p>11 A Did that give me concern? To the extent 12 that I learned new issues during that time, yes.</p> <p>13 Q What were those concerns, obviously, and how 14 you would implement them going forward potentially 15 from an operational standpoint?</p> <p>16 A Well, I -- the concerns weren't from an 17 operational standpoint. They were more from a -- a 18 legal standpoint, so I don't think I can answer that.</p> <p>19 Q Operationally you need to have cash flow; 20 right?</p> <p>21 MR. SIMON: Just to be technically correct, 22 I think you're not going here, but I'm just going to 23 technically object --</p> <p>24 MR. DIAMANTATOS: Okay.</p> <p>25 MR. SIMON: -- on the basis of</p> | <p>1 your description of, you know, look, now the petition 2 had been filed, there's bankruptcy oversight?</p> <p>3 Were any operational controls put in place 4 from your tenure of co-CEO May of 2019 going forward 5 to make sure that there's additional oversight of any 6 kind aside from what you've already described?</p> <p>7 A Sure. From what I understand, there are 8 weekly -- per the cash collateral stipulation, there 9 are weekly financial reports that are provided.</p> <p>10 There's also an agreement that any check 11 that is paid above -- or any payment that's made above 12 I think \$10,000 is approved by the chief restructuring 13 officer. Again, all this is in -- in the public 14 sphere.</p> <p>15 Q Okay.</p> <p>16 A I think taken together, those -- those 17 things, you know, provide sufficient oversight.</p> <p>18 Q Do you know -- what about the appointment of 19 independent board members for oversight of upper 20 management?</p> <p>21 A Sure, we -- we have three independent board 22 members.</p> <p>23 Q Okay. What about engaging an accounting 24 firm to conduct a review or audit of the business?</p> <p>25 A I believe that for the first several months</p> |
| Page 287 | Page 289 |
| <p>1 attorney-client privilege to make sure that that's 2 noted for the record.</p> <p>3 MR. DIAMANTATOS: Okay.</p> <p>4 THE WITNESS: So, I mean, post-petition, I 5 mean, we opened a debtor in possession bank account, 6 which is monitored by the -- you know, several 7 parties, including the U.S. Trustee's Office.</p> <p>8 BY MR. DIAMANTATOS:</p> <p>9 Q Sure.</p> <p>10 A And an independent board was thereafter 11 selected, consisting of the three gentlemen that I've 12 mentioned earlier. And, you know -- and the -- and 13 those people weren't the same as the officers.</p> <p>14 So I think that in that regard, you know, 15 those potential, you know, operational issues were 16 resolved.</p> <p>17 Q Okay. So at that point, given the nature of 18 the bankruptcy oversight, you didn't have concern of 19 folks misappropriating Scoobeez' funds for some other 20 purpose; is that what you're saying?</p> <p>21 A That's correct. I think that, you know, 22 given the oversight that's provided, I don't think 23 that's as big a concern.</p> <p>24 Q Do you know whether or not additional 25 controls were being put in place aside from, you know,</p> | <p>1 post-petition, and perhaps currently still, we had a 2 financial advisor firm that was overseeing a lot of 3 stuff.</p> <p>4 Q Okay. Are you aware as to whether or not in 5 May -- I'm sorry, March of 2017 Shahan and Scoobeez' 6 CFO, Imran Firoz, met with Neal Kaufman and Sean 7 McAvoy to discuss emergency capital infusion into the 8 business?</p> <p>9 A No.</p> <p>10 Q Do you have any knowledge as to whether or 11 not as a result of that meeting Firoz notified Hillair 12 Partners of Shahan's financial improprieties, alleged 13 financial improprieties?</p> <p>14 A Could you repeat the question?</p> <p>15 Q Sure.</p> <p>16 Do you have any knowledge as to whether or 17 not as a result of that meeting Firoz notified Hillair 18 Partners of Shahan's alleged financial improprieties?</p> <p>19 A I don't know if those were connected.</p> <p>20 Q Do you know whether or not the company did 21 need emergency capital during that time frame, March 22 of 2017?</p> <p>23 A I don't know.</p> <p>24 Q Okay. And if you don't know that, then, 25 it's fair to say that you don't know if they did</p> |

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1 REPORTER'S CERTIFICATION
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3 I, Diana Janniere, a Certified Shorthand Reporter,
4 in and for the State of California, do hereby certify:

5 That the foregoing witness was by me duly sworn;
6 That the deposition was then taken before me at the
7 time and place herein set forth; that the testimony
8 and proceedings were reported stenographically by me
9 and later transcribed into typewriting under my
10 direction; and that the foregoing is a true record of
11 the testimony and proceedings taken at that time.

12
13 IN WITNESS WHEREOF, I subscribed my name
14 this 7th day of February, 2020.

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21 Diana Janniere, CSR No. 10034
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1 DECLARATION ERRATA SHEET
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3
4 Our Assignment No. 546154
5 Case Caption: In re: Scoobeez, et al.

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7
8 DECLARATION UNDER PENALTY OF PERJURY
9 I declare under penalty of perjury that I
10 have read the foregoing transcript of my deposition
11 taken in the above-captioned matter or the same has
12 been read to me, and the same is true and accurate,
13 save and except for the changes and/or corrections, if
14 any, as indicated by me on the DEPOSITION ERRATA SHEET
15 hereof, with the understanding that I offer these
16 changes as if still under oath.

17 Signed on the _____ day of
18 _____, 2020.

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22 SCOTT A. SHEIKH
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1 DEPOSITION ERRATA SHEET
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25 SCOTT A. SHEIKH

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24 SIGNATURE: _____ DATE _____
25 SCOTT A. SHEIKH

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: Foley & Lardner LLP, 555 South Flower Street, Suite 3300, Los Angeles, CA 90072-2411

A true and correct copy of the foregoing document entitled (*specify*): **DECLARATION OF SHANE J. MOSES IN SUPPORT OF DEBTORS' SUPPLEMENTAL BRIEF (A) IN FURTHER SUPPORT OF THE DEBTORS' EMERGENCY MOTION FOR PRELIMINARY INJUNCTION TO PREVENT VIOLATION OF THE AUTOMATIC STAY, AND (B) IN OPPOSITION TO AMAZON LOGISTICS INC.'S MOTION MODIFYING THE AUTOMATIC STAY** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) 02/19/2020, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) 02/19/2020, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Honorable Julia W. Brand
United States Bankruptcy Court
Central District of California
Edward R. Roybal Federal Building and Courthouse
255 E. Temple Street, Suite 1382
Los Angeles, CA 90012

Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) 02/19/2020, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

02/19/2020

Sonia Gaeta

/s/ Sonia Gaeta

Date

Printed Name

Signature

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